This is a digital copy of a book that was preserved for generations on library shelves before it was carefully scanned by Google as part of a project to make the world's books discoverable online.

It has survived long enough for the copyright to expire and the book to enter the public domain. A public domain book is one that was never subject to copyright or whose legal copyright term has expired. Whether a book is in the public domain may vary country to country. Public domain books are our gateways to the past, representing a wealth of history, culture and knowledge that's often difficult to discover.

Marks, notations and other marginalia present in the original volume will appear in this file - a reminder of this book's long journey from the publisher to a library and finally to you.

Usage guidelines

Google is proud to partner with libraries to digitize public domain materials and make them widely accessible. Public domain books belong to the public and we are merely their custodians. Nevertheless, this work is expensive, so in order to keep providing this resource, we have taken steps to prevent abuse by commercial parties, including placing technical restrictions on automated querying.

We also ask that you:

+ *Make non-commercial use of the files* We designed Google Book Search for use by individuals, and we request that you use these files for personal, non-commercial purposes.

+ *Refrain from automated querying* Do not send automated queries of any sort to Google's system: If you are conducting research on machine translation, optical character recognition or other areas where access to a large amount of text is helpful, please contact us. We encourage the use of public domain materials for these purposes and may be able to help.

+ *Maintain attribution* The Google "watermark" you see on each file is essential for informing people about this project and helping them find additional materials through Google Book Search. Please do not remove it.

+ *Keep it legal* Whatever your use, remember that you are responsible for ensuring that what you are doing is legal. Do not assume that just because we believe a book is in the public domain for users in the United States, that the work is also in the public domain for users in other countries. Whether a book is still in copyright varies from country to country, and we can't offer guidance on whether any specific use of any specific book is allowed. Please do not assume that a book's appearance in Google Book Search means it can be used in any manner anywhere in the world. Copyright infringement liability can be quite severe.

About Google Book Search

Google's mission is to organize the world's information and to make it universally accessible and useful. Google Book Search helps readers discover the world's books while helping authors and publishers reach new audiences. You can search through the full text of this book on the web at `http://books.google.com/`

3 3433 00603010 4

Copyright 1911 by Ella Buchanan

THE SUFFRAGIST AROUSING HER SISTERS
By Ella Buchanan, Sculptress

THE WOMAN CITIZEN'S LIBRARY

A Systematic Course of Reading in Preparation for the Larger Citizenship

Editor

SHAILER MATHEWS, D.D.

Dean Divinity School, The University of Chicago
President, Western Economic Society

NEW YORK

TWELVE VOLUMES · FULLY ILLUSTRATED

LIBRARY

THE CIVICS SOCIETY

CHICAGO

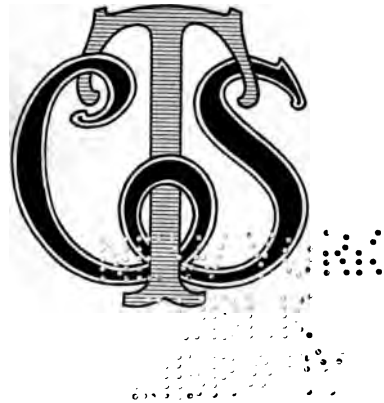
1913

THE NEW YORK
PUBLIC LIBRARY
665090
ASTOR, LENOX AND
TILDEN FOUNDATIONS.
R 1914 L

COPYRIGHT 1913 BY
THE CIVICS SOCIETY

NEW YORK
PUBLIC
LIBRARY

PARTIAL LIST OF CONTRIBUTORS TO THE WOMAN CITIZEN'S LIBRARY



The Civics Society
CHICAGO

PARTIAL LIST OF CONTRIBUTORS TO THE WOMAN CITIZEN'S LIBRARY

SHAILER MATHEWS, D.D.
Editor-in-Chief

FRANCES SQUIRE POTTER

DEAN W. T. SUMNER

MARGARET D. ROBINS

WM. W. WILLOUGHBY

LOUISE DE KOVEN BOWEN

MAUD P. BOYES
(Left)

BERTHA REMBAUGH
(Right)

FLORENCE KELLEY
(Left)

BELLE SQUIRE
(Right)

TIAL LIST OF CONTRIBUTORS TO WOMAN CITIZEN'S LIBRARY

JANE ADDAMS

JESSE MACY

MARGARET J. EVANS

ALBERT B. WOLFE

GRACE C. STRACHAN
(Copyright by Anna F. Lewis)

OWEN R. LOVEJOY

MARY GREY PECK
(Left)

ANNA E. BLOUNT
(Right)

FRANCES A. KELLOR
(Left)

LUCIA AMES MEAD
(Right)

PARTIAL LIST OF CONTRIBUTORS TO
THE WOMAN CITIZEN'S LIBRARY

FORD H. MacGREGOR

CATHERINE W. McCULLOCH

ELLA BUCHANAN
(Left)

LUCINA G. IRISH
(Right)

KATHERINE L. STEVENSON
(Left)

MRS. PHILIP N. MOORE
(Right)

TWELVE VOLUMES

OVER FIFTY EXPERT WRITERS WILL HAVE A PART IN THE MAKING OF THE WOMAN CITIZEN'S LIBRARY

CUTS IN COLORS

OVER 2500 PAGES

BOUND IN FULL LEATHE

Introduction

WHAT THE WOMAN CITIZEN'S LIBRARY IS

EPOCHS begin with the extension of rights. When these rights involve the sacrifice of property or privilege, there result the revolutions with which our history books are filled.

But sometimes, among people of high social morality, these epochs spring from the spirit of democracy and begin with the sharing rather than the surrender of rights. That is the characteristic of the new age into which we enter, as women are granted larger opportunities in our social life. Men begin to share with women privileges which have come down from the ancient days when men were the owners of their families and warriors because they could be citizens.

This new epoch promises to be even more significant than any other period which has marked the extension of civil liberties. When one thinks of the changes that followed the abolition of slavery in America, the extension of education to a nation's children, and before that, the organization of a state in which there should be political equality for all its citizens, it is hard to imagine those other changes which must result in state, families, and social intercourse when women

come to enjoy equal opportunity in the world of industry and politics. No institution in our complicated society will escape change in this new Age of Women. What steam did to an age of hand labor and electricity to an age of steam, the woman worker and the woman citizen will do to a civilization built up about man's privileges.

There are those who await these changes with apprehension; there are others who see in their approach only new ground for extreme optimism. Both classes of prophets are mistaken; and both are right. The future will tell its own tale whatever we may prophesy. And when that tale is told it will cover a multitude of wrongs adjusted and of new problems answered by those who shall enjoy the larger opportunities which this new age will bring to men as well as to women.

But whatever may be the record the future is to write, of one thing we may be certain: in this as in every other epoch the extension of rights is a blessing only when the new recipient regards them as responsibilities as well as privileges. Many a society which might have moved peacefully into larger efficiency under other conditions, has been filled with struggle and misery because too many of its members have regarded progress as an opportunity for mere enjoyment.

Herein lies both the danger and the opportunity for women. If they enjoy the privileges of their new epoch without an intelligent understanding of their new

duties, their new opportunities can easily become a source of harm and misery. If, however, women seriously undertake to educate themselves for their new duties as well as for their new privileges, they will introduce into the social evolution an idealistic force which hitherto has been sadly lacking.

Take politics for an example. The State is as real as the people who compose it. The duties of citizenship are as definite as the duties of housekeeping. Only as these self-evident facts are fully appreciated will women be able to share in those many and splendid reforms which we can see must come in our social life. They ought, therefore, to know something of the great struggle through which Democracy has arisen and has gradually extended its duties and privileges. They ought to know how the nation, how a state, how a city, how even a little town or a ward is governed. More than that, they ought to gain a vision of that larger citizenship into which the world as a whole is now entering.

Or take social life with its economic struggles, its search for larger justice, its new sympathy with the poor and the unfortunate. It, too, is a field into which women must enter intelligently as well as earnestly.

All this means reading and studying. Not that every woman is to be a professor of sociology or a campaign leader; but every one of those thousands of intelligent women who particularly will be held respon-

sible for the outcome of this new epoch, should approach social and political duties with an intelligence which will enable her to accomplish those reforms for which our present social order prays.

It is in the belief that these new opportunities and duties, both scientific and practical, can be so presented to women as to enable them to acquire this needed information that THE WOMAN CITIZEN'S LIBRARY is issued. There are many books treating of social progress, but no one of them emphasizes the discussion of vital questions from the viewpoint of women. That is the particular approach of these volumes. They number among the contributors not only some of the recognized authorities in the field of politics, but an especially large number of women who are actually engaged in the tasks of the larger citizenship.

Nor are these volumes merely content to give information as to rights and duties; they also show women how to carry on those activities which our complicated social life involves.

The volumes are thus an exceptional combination of theory and experience, of information and guidance. They are issued with the profound hope that they may in no uncertain measure serve to help the thousands of women who within the next few years will have so large a part in the development of our great Republic.

THE EDITOR.

Subjects and Contributors

Editor, SHAILER MATHEWS, D. D.

DEAN DIVINITY SCHOOL, THE UNIVERSITY OF CHICAGO
PRESIDENT, WESTERN ECONOMIC SOCIETY

POLITICAL SCIENCE—Volumes I, II, III

INTRODUCTION—Woman's Opportunity and the Larger Citizenship

By **Shailer Mathews, D.D.**, Editor.

POLITICAL SCIENCE—A practical course of instruction on the fundamental principles of government.

By **Jesse Macy, M.A., LL.D.**, Professor of Political Science, Iowa College. Author of several standard works

AMERICAN POLITICS—Twelve Lecture Studies.

By **Harry Pratt Judson, A.M., LL.D.**, President, The University of Chicago

PRACTICAL POLITICS—Volumes IV, V, VI

A Course of Instruction in Practical Politics—Government, Federal, State, City, Town and Village—How Conducted —Political Parties—Party Machinery, Etc.

By **Ford H. MacGregor, B.A.**, Instructor in Political Science, The University of Wisconsin. Alderman, Madison, Wis. Authority on Commission Government.

WOMAN SUFFRAGE—Volume VII

A WORLD REVIEW OF WOMAN SUFFRAGE

By **Mrs. Carrie Chapman Catt**, President, The International Woman Suffrage Alliance, New York.

THE WOMAN CITIZEN'S LIBRARY

MANHOOD SUFFRAGE IN THE UNITED STATES

By **A. B. Wolfe, A.B., Ph.D.,** Professor of Economics and Sociology, Oberlin College, Oberlin, O.

WOMAN SUFFRAGE IN THE UNITED STATES

By **Miss Mary Grey Peck, A.M.,** Former Secretary National American Woman Suffrage Association, Geneva, New York.

THE POLITICAL STATUS OF WOMEN IN THE UNITED STATES

By **Miss Bertha Rembaugh,** Author "The Political Status of Women," New York.

THE ORGANIZED OPPOSITION—THE LIQUOR TRAFFIC

By **Mrs. Katherine Lent Stevenson,** President, Massachusetts Woman's Christian Temperance Union

FACTS AND FIGURES CONCERNING EQUAL SUFFRAGE—Tables and statistics covering every phase of suffrage and woman's work

By **Mrs. Florence Bennett Peterson,** Former Corresponding Secretary Illinois Equal Suffrage Association, Chicago

WOMAN AND THE LAW—Volume VIII

THE AMERICAN CONSTITUTIONAL SYSTEM

By **William W. Willoughby, A.B., Ph.D.,** Professor of Political Science, Johns Hopkins University, Baltimore, Md.

THE LEGAL RIGHTS AND DUTIES OF WOMEN

By **Mrs. Jennie L. Wilson, LL.B.,** Author of "The Legal and Political Status of Women in the United States," Cedar Rapids, Iowa

LAWS AFFECTING WOMEN IN INDUSTRY

By **Mrs. John B. Andrews,** Assistant Secretary, American Association for Labor Legislation, New York

THE WOMAN CITIZEN'S LIBRARY

THE NO VOTE, NO TAX MOVEMENT

By **Miss Belle Squire,** President "No Vote, No Tax" League. Author "The Woman Movement in America," Chicago

HOW TO ASSIST LEGISLATION

By **Mrs. Harriet G. R. Wright,** President, Colorado Equal Suffrage Association. Former Member of Colorado Legislature, Denver.

WOMAN AND THE LARGER CITIZENSHIP—Volumes IX, X, XI

(1) CITY HOUSEKEEPING

WHY WOMEN ARE CONCERNED WITH THE LARGER CITIZENSHIP

By **Miss Jane Addams, A.B., A.M., LL.D.,** Hull House, Chicago

HOW WOMEN CAN HELP THE ADMINISTRATION OF A CITY

By **Miss Anna E. Nicholes,** Former Superintendent, Woman's City Club, Chicago

THE IDEAL CITY

By **Mrs. Imogen B. Oakley** and **Mrs. L. L. Blankenburg,**

Vice President, General Federation of Women's Clubs, Philadelphia

THE PUBLIC HEALTH

By **S. M. Gunn,** Assistant Professor Biology and Health, Mass. Institute of Technology; Assistant Editor, "American Journal of Health"

BUDGET MAKING

By **Mrs. Howard C. Warren,** President, New Jersey State Federation of Women's Clubs, Princeton, N. J.

THE WOMAN CITIZEN'S LIBRARY

(2) THE PREVENTION OF SOCIAL WASTE

WHAT IS MEANT BY SOCIAL WASTE

By **Shailer Mathews, D.D.,** Editor

CHILD LABOR

By **Owen R. Lovejoy, A.B., A. M.,** General Secretary, National Child Labor Committee, New York

FACTORY INSPECTION

By **Mrs. Florence Kelley,** General Secretary, National Consumers' League, New York

JUVENILE PROTECTION

By **Mrs. Louise de Koven Bowen,** President, Juvenile Protective Association, Chicago

OBLIGATION OF CITY TO ITS YOUTH

By **Allen Hoben,** Field Secretary, Juvenile Protective Association

THE PREVENTION OF VICE

By **The Very Rev. Dean Walter T. Sumner,** Chairman Chicago Municipal Vice Commission

SAFEGUARDING THE WOMAN IMMIGRANT

By **Miss Frances A. Kellor, LL.B.,** Chief Investigator, Bureau of Industries and Immigration, State of New York

PRISON REFORM AND PUBLIC CHARITIES

By **Thomas J. Riley,** General Secretary, Bureau of Charities, Brooklyn, N. Y.

PEACE AND ARBITRATION

By **Mrs. Lucia Ames Mead,** Author and Lecturer, Boston, Mass.

THE WOMAN CITIZEN'S LIBRARY

(3) TRAINING FUTURE CITIZENS

THE PUBLIC SCHOOL

By **Mrs. Frances Squire Potter, A.B., A.M.,** Chairman, Literature Committee, General Federation of Women's Clubs, Chicago

PUBLIC RECREATION

By **Miss Charlotte Rumbold,** Secretary, Public Recreation Commission, Park Department, St. Louis, Mo.

TRADE-UNIONISM FOR WOMEN

By **Mrs. Raymond Robins,** President, The National Women's Trade Union League of America, Chicago

EQUAL PAY FOR EQUAL WORK

By **Miss Grace C. Strachan,** President N. Y. Interborough Association. Author "Equal Pay for Equal Work," New York

LEGAL AID SOCIETIES

By **Mrs. William E. Boyes,** Superintendent, Legal Aid Society, Chicago

PRINCIPLES OF EUGENICS

By **Mrs. Anna E. Blount, M.D.,** Chicago

THE WOMAN CITIZEN AND THE HOME—Volume XII

THE WOMAN CITIZEN A WOMAN FIRST OF ALL

By **Miss Margaret J. Evans, A.B., A.M., L.H.D.,** Forerly Dean of Women, Carleton College, Northfield, Minn.

WOMEN'S CLUBS; TRAINING WOMEN FOR THE LARGER CITIZENSHIP

By **Mrs. Philip N. Moore,** Former President General Federation of Women's Clubs, St. Louis

HOUSEHOLD MANAGEMENT

By **Marion Talbot, A.M., LL.D.,** Professor of Household Administration, The University of Chicago

COMPLETE TOPICAL INDEX

Copyright 1912 by Ella Buchanan, Sculptress

CAPTIVITY'S CAPTIVE

Woman Tied to Money Bags Showing Economic Dependence

VOLUME I

Political Science

By JESSE MACY, M.A., LL.D.
Professor of Political Science, Iowa College
Author of several standard works

EDITOR'S NOTE

The purpose of THE WOMAN CITIZEN'S LIBRARY is to fit women for the Larger Citizenship and naturally such preparation should begin with the study of Political Science. This Course by Dr. Macy, is undoubtedly the best popular presentation of the fundamental principles of the "Science of State" ever published and should be read carefully.

Following this department will come the departments of "Practical Politics," "Woman Suffrage," "Woman and the Law," "Woman and the Larger Citizenship," etc., all arranged in their logical order. (See list of subjects and contributors for full outline.)

Particular attention is called to the practical and convenient arrangement of the text. Information on important subjects is supplemented by quotations from other authorities. All such quotations are given in full thus doing away with the necessity for extensive research. (Copr., MDCCCXCVIII., by T. U. A.)

VOLUME I

TABLE OF CONTENTS

PART I

PAGE

The Origin of the Modern State 31

The Meaning of Political Science. Chapter I 31
The State and the Nation. Chapter II 39
The Family and the Origin of the State. Chapter III .. 48
The Land and the State. Chapter IV 56
Church and State. Chapter V 67
Law and the State. Chapter VI 77
Questions for Review. Part I 86
Subjects for Special Study 87

PART II

Switzerland: A Typical Democracy 88

The Beginning of Swiss History. Chapter I 88
The Beginning of the Confederacy. Chapter II 100
The Swiss Confederacy. Chapter III 110
Preparation for the Democratic State. Chapter IV 119
United Switzerland Under the Democratic Constitution. Chapter V 132
Special Lessons from Swiss Experience. Chapter VI ... 143
Questions for Review. Part II 150
Subjects for Special Study 151

PART III

PAGE

Origin of English Democracy 152

The Nature of English Democracy. Chapter I..... 152
The Origin of English Democracy. Chapter II..... 161
The Magna Charta. Chapter III..... 169
The Wars of the Roses. Chapter IV..... 179
The Stuart Rule. Chapter V..... 187
The Advent of Democracy. Chapter VI..... 195
Questions for Review. Part III..... 205
Subjects for Special Study..... 207

PART IV

Democracy in the New World..... 208

The Vacant Continent. Chapter I..... 208
Local Government in the New World. Chapter II..... 217
The Federal System in America and Europe. Chapter III 224
The Holy Alliance and Democracy. Chapter IV..... 235
The Monroe Doctrine. Chapter V..... 247
The New Problems of American Democracy. Chapter VI. 255
Questions for Review. Part IV..... 262
Subjects for Special Study..... 264

Bibliography 28

VOLUME I

LIST OF ILLUSTRATIONS

PAGE

FRONTISPIECE — The Suffragist Arousing Her Sisters. By Ella Buchanan, Sculptress 4

Portraits of Contributors 7-8-9-10

Captivity's Captive. By Ella Buchanan, Sculptress 21

Capitol of the United States, Washington, D. C. 29

Parliament Building, Berlin, Germany 57

St. Peter's and the Vatican, Rome, Italy 69

Government Buildings, Bern, Switzerland 89

Lake and Council House, Zurich, Switzerland 101

A Typical Group of Swiss Women Peasants 121

Throne Room of Napoleon I at Fontainebleau 129

Place de la Concorde, Paris, France 137

House of Lords, London, England 155

Windsor Castle, England 171

Houses of Parliament, London, England 197

Chamber of Deputies, Paris, France 225

Parliament Buildings, Christiania, Norway 233

Senate and Academy, St. Petersburg, Russia 243

BIBLIOGRAPHY

For those who wish to read more extensively, the following works are especially recommended:

Author	*Title of Work*
J. K. Bluntchli	Theory of the State
Albion W. Small	General Sociology
Westel Woodbury Willoughby	The Nature of the State
Franklin Henry Giddings	Principles of Sociology
H. S. Maine	Ancient Law
John Richard Green	History of the English People
J. R. Green	The Making of England, Edition of 1882
Victor Duruy	History of the Middle Ages
Walter Bagehot	The English Constitution
Jesse Macy	The English Constitution
J. R. Green	Short History of the English People
James Bryce	The Holy Roman Empire
James Bryce	The American Commonwealth
Thomas Hill Green	Political Obligation
E. Mulford	The Nation
Baron de Montesquieu	The Spirit of Laws
W. D. McCrackan	The Rise of the Swiss Republic
W. D. McCrackan	Teutonic Switzerland
Edward A. Freeman	The Growth of the English Constitution
Henry Thomas Buckle	History of Civilization in England
John Martin Vincent	State and Federal Government in Switzerland
P. Lanfrey	History of Napoleon
Paul Lacombe	The Growth of a People
Samuel Rawson Gardiner	History of Plymouth Plantation
Charles Borgeand	The Rise of Modern Democracy
Sir Thomas Erskine May	Democracy in Europe
Thomas Babington Macaulay	History of England
Sir Thomas Erskine May	Constitutional History of England
George Bancroft	History of the United States
Thomas Wentworth Higginson	History of the United States
E. Channing	Students' History of the United States
George E. Howard	Local Constitutional History of the United States
Goldwin Smith	The United States
John Bigelow (Editor)	Life of Benjamin Franklin
Jared Sparks	Life of Benjamin Franklin
Shailer Mathews	The French Revolution
Thomas Alfred Walker	The Science of International Law
Hannis Taylor	Origin and Growth of the English Constitution
Henry Cabot Lodge	History of the English Colonies in America
Woodrow Wilson	The State
Edward Westermark	History of Human Marriage
Lawrence A. Lowell	Government of England
H. Morse Stephens	A History of the French Revolution

Photograph by Harris & Ewing

CAPITOL OF THE UNITED STATES, WASHINGTON, D. C.

Political Science

PART I

The Origin of the Modern State

CHAPTER I

THE MEANING OF POLITICAL SCIENCE

THE nature and scope of Political Science may be better understood by an explanation of its relation to History, Political Economy, and to Sociology.[1]

(1) Among the very early uses of written language was the recording of past experiences, the narration of events. Even without the use of writing the memory of past experiences may be handed down by tradition. There can be no science except as men gain the ability to preserve a knowledge of past experiences and transmit it to future generations. *History,* then, is fundamental in all knowledge, all progress. In its broadest sense it deals with the whole range of human experience in its progressive movement. History assumes progress. If one life is a repetition of another; if one

NOTE.—All footnotes or references from other works are given in full at the end of each chapter, thus doing away with the necessity for extensive research. See SUPPLEMENTARY READING, page 35.

generation is but the transcript of its predecessor, there is nothing of interest to record, nothing to remember. The non-progressive races are races without history. History is developed, enlarged, and amplified, according as the people attain the power of progress.

Among the Asiatic peoples the Hebrews have a distinguished history because they were possessed of a purpose to render the human race more fortunate. The Athenians became the writers of true history when they aspired to be the teachers of mankind. The Romans produced classic history after generations of conscious political progress.

(2) *Political Science* is the science of the state. It is not as old as history, but its origin and development are among the earliest amplifications of history. When the Greeks began to write of the progressive movements of men, they began to reason about the most obvious of human institutions, the family, the household, the various trades and occupations, and especially the one inclusive organization called the city, or state. The Greeks were thus the first distinct contributors to the science of the state.[2] The Romans made immense contributions to jurisprudence, or the science of law. Political Science includes not only a discussion of the nature and philosophy of the state, but also of jurisprudence, constitutions, and various forms of government, and practical politics, or statecraft. The term is thus applied to a group of allied sciences which explain the state.

(3) *Political Economy* deals especially with man's efforts to gain the means of subsistence.[3] As a distinct science it is quite modern. Yet there has ever been the closest relation between the political and the industrial life of a people. In Economics, however, the stress of attention is upon the industrial relations and activities of men, while in politics the stress of attention is upon their relations to the one all-inclusive organization called the state.

(4) *Sociology* is a yet more recent term, and it is a term not always used with the same signification.[4] After dealing with the obvious relations of man to the state, after a discussion of his industrial relations, there is still left a wide field of human relations. There is need of a term to express the whole range of human relations. Sociology is the term most in use for such a purpose. In this sense political science and political economy are but branches of the more inclusive science of Sociology. In its broadest application Sociology includes almost as wide a field as history. History notes the fact of progress from one condition to another; Sociology would explain the principles of human relations and note the causes of progress or change. In this sense it is a sort of philosophy of history. Political Science is History and Sociology specialized with reference to gaining a more complete understanding of the State; while Political Economy is History and Sociology specialized with reference to a better understanding of the industrial life of man. If we make

History and Sociology universal we shall be compelled to say that Physics is History and Sociology specialized with reference to an understanding of man's relation to the material world. But there is a marked difference between man's relations to the material world and his relations as a political and social being. In the world of matter there are attraction, heat, light, and electricity — forces which, so far as appears, are wholly uninfluenced by what man thinks and feels. In the social world there are love, hate, fear, hope, joy, sorrow; and political, industrial, and social relations are determined by what men think and feel and purpose. History and Sociology have to do primarily with man as a social being; with institutions whose characters are determined by the thoughts, feelings, and purposes of men; such as the family, the state, and the market. It is man's duty to master the material world, to learn of the forces of nature and direct them to wise ends. This can be done only as there is continued progress in social relations.

(5) There is thus an intimate relation, a bond of union between all sciences and all fields of conscious experience. Sociology is the master science. It is the science of human progress. It records the stages of man's triumphs over nature. It gives meaning to all rational endeavor. Political Science, or the science of the State, is the branch of Sociology which has been earliest developed.

SUPPLEMENTARY READING

CHAPTER I

The Meaning of Political Science

[1] **Political Science.**—Political science in the proper sense is the science which is concerned with the State, which endeavors to understand and comprehend the State in its conditions, in its essential nature, its various forms or manifestations, its development.

Thus many sciences, which are sometimes regarded as political sciences, are not really such, although they relate to the State, and must, of course, be taken account of as auxiliary. Such are:

(*a*) The *History* of a people or nation, except in so far as it is exclusively political or constitutional history. The general course of events in a people's life, the acts of individuals, the history of art, science, economic conditions, morals, diplomatic and political struggles, military affairs — all these form no part of political science.

(*b*) *Statistics*, so far as they include social and private matters and are not exclusively political.

(*c*) *Political Economy*, so far as it is an inquiry into economic laws which are applicable to every one and not merely to the State.—*"Theory of the State," by J. K. Bluntschli, p. 1.*

[2] **The Hellenic Idea of the State.**—Political science does not properly begin till we come to the Greeks. As it was in Greece that the self-consciousness of man first unfolded itself in art and philosophy, so it was in politics.

Small as was the territory, and limited as was the power of the Greek State, the principles upon which the Greek political conceptions were based were broad and comprehensive, and the political idea expressed by Greek thinkers is lofty and noble. They base the State upon human nature, and hold that only in

the State can man attain his perfection and find true satisfaction. The State is for them the moral order of the world in which human nature fulfills its end.

Plato (*Rep.* v. p. 462) utters the great saying: "The best State is that which approaches most nearly to the condition of the individual."—*Ibid., pp. 34, 35.*

[3] **Political Economy.**—Political Economy (or Economics—the terms are essentially equivalent) is the science which undertakes to show how men satisfy their needs, by procuring (commonly through effort, or exchange) useful objects or the services of others. In describing the processes by which human wants are satisfied, it deals, for the most part, not with the conditions or methods peculiar to one industrial pursuit or another, but rather lays down certain broad principles applying to industry in general. It discusses in this way the production of goods and the circumstances generally favorable or unfavorable to their abundance or excellence; the sale of goods, prices and money; labor and the conditions affecting its quality or quantity; wages, capital in productive use and loans at interest; the function and reward of the employer, the land-owner and land rent; the consumption of goods, especially as it affects production and distribution.—"*The Americana.*"

[4] **Sociology.**—From possible definitions we select the following:

1. Sociology is the science of society or the science of social phenomena.[1]

2. Sociology is the study of men considered as affecting and as affected by association.

3. Sociology is a unified view of human life, derived (a) from analysis of all discoverable phases of human activity, past and present; (b) from synthesis of these activities in accordance with their functional meanings; (c) from telic interpretation of the whole thus brought to view, in so far as tendencies are indicated in the process analyzed; and it is finally a body of guiding principles, derived from this analysis, for the conduct of life.

Each of these definitions or descriptions of sociology is con-

[1] Ward, Pop. Sc. Mo., Je., 1902, p. 113.

sistent with the others, and each may be used to complete or to recapitulate the others.

Definition 1 is the most compact statement which can be made of the whole subject-matter which sociology finds it necessary to treat.

Definition 2 states the same thing in terms of the units which have to be recognized in all our treatment of this subject-matter.

Definition 3 puts the emphasis on the great divisions of the *content* of the science, after it has employed its methods upon the subject-matter.

The foregoing may serve at once as samples of the thousand and one definitions of sociology, and as approaches to a working definition. Whatever their variations, whatever their merits and demerits, they all indicate at last more or less definite purpose to reach the same result.

In presence of the same body of facts about human experience, intellectual interest in organizing and interpreting the facts concentrates in several distinct ways. For instance, one variety of thinkers look out over human associations, and they are moved to ask: "How did men come to associate as they do now?" This is the typical question of those whose primary curiosity is about the genetic aspect of human experience. Thinkers of another variety survey the same facts, and they ask: "How do men manage to preserve the *status quo?*" This question voices the peculiar interest of the men who care more for insight into the present situation, for analysis of present social arrangements and the way they work, than for knowledge of how they came into existence. A third variety of thinkers are relatively indifferent to both these questions, and they ask rather: "What are the visible indications about the ways in which men will associate in the future?" This is the question that rallies the men who are trying to make the things which are seen disclose those that are unseen. It is the question of the seer, the idealist, the constructive philosopher. To him past and present are nothing except as they contain and reveal the future. Still another variety of men take for granted all the answers to those questions that seem to them worth considering, and their question is, "What is

the thing to do here and now, in order to make better the future that is to be?" This is the query of the men who want to be more than mere scholars. They want to accomplish something. They want to organize rational movements for making life yield increasing proportions of its possibilities.—*"General Sociology," by Albion W. Small, Chap. II, p. 23.*

Ever since Compte proposed the name "Sociology," and parallel with all subsequent attempts to give the term a definite content, one mode of attack upon the proposed science has been denial that it could have a subject-matter not already pre-empted by other sciences. This sort of attack has been encouraged by the seemingly hopeless disagreement among sociologists about the scientific task that they were trying to perform. If sociology has had anything to say about primitive peoples, for instance, it has been accused of violating the territory of anthropology and ethnology. If it has dealt with evidence recorded by civilized races, it has been charged with invading the province of the historian. If it has touched upon the relations of social classes in modern times, the political scientist or the economist has warned it to cease infringing upon his monopoly. Thus sociology has seemed to workers in other sciences either a pseudo-science, attempting to get prestige in their own fields by exploiting quack methods, or a mere collector of the waste thrown aside by the more important sciences. Sociologists themselves have unintentionally done not a little to confirm this impression. As has been hinted above, their failure to agree upon a definition of their science, or upon precise description of their task, has seemed to afford ocular proof that their alleged science was merely a name with no corresponding content.

Has sociology a material of its own? Jealous friends of the older sciences promptly answer "No." Friends of the new science as confidently answer "Yes"; but they have not always been able to justify the answer to each other or even to themselves.—*"General Sociology," by Albion W. Small, Chap. I, p. 3.*

CHAPTER II

THE STATE AND THE NATION

IN mathematics or chemistry definite terms are applied to definite unchanging phenomena. Words thus come to have a precise meaning. In social science the case is different. There is no social science apart from progress. All social institutions are subject to constant change; they are affected by changing thoughts, feelings, beliefs, and purposes. Even the family, the most persistent of social institutions, is subject to constant change. The descriptive terms of social science cannot be used with mathematical accuracy. The chief terms are words in common use, and these words take on new meanings as institutions change.

(1) Take the word nation. A Scotsman once informed me that the feeling of nationality was rapidly increasing in the United Kingdom. This seemed not at all strange since the feeling of nationality was also growing in the United States. But upon more careful inquiry I learned that the form of words in the two countries expresses contradictory ideas. In America the feeling of nationality grows when the Irish, the Scots, and the Germans forget their distinctive names in the overpowering sense that they are

all alike Americans. The feeling of nationality grows, also, when the people of the separate states lose the sense of separateness and think of themselves as members of the one great nation. We say, the United States is a Nation. In the United Kingdom, on the other hand, the feeling of nationality grows as the Scotsman becomes more intensely Scotch in his feelings, the Irishman more intensely Irish; when the Irish, the Scotch, and the Welsh seek to establish for themselves separate states with legislatures of their own. This feeling of nationality causes the Welshman to assert that there is a Welsh Nation.

The reader of political literature must learn to detect changes in the meaning of words. Nation, as the term was first used, meant a people descended from a common ancestry who were held together by a sense of kinship. This sense of kinship has been a strong factor in the formation of independent states. When we say the United States is a Nation, the word has a wholly different meaning from the term in the phrase, the Welsh nation. We cannot, in any true sense of the term, say that Wales is a nation. In one sense the term is geographical, and designates an independent sovereign State having power to make treaties and belonging to the family of nations. International law governs the conduct of independent States or Nations in their dealings with each other. As thus used Nation is a synonym for sovereign State. Wales

is not a State, though the Welsh people may have a strong sense of kinship.

Up to the middle of the eighteenth century there were in central Europe a number of small German states. Among the people of the separate states there was a sense of kinship. This sense of unity found expression first in the formation of the North German Confederation, and later in the German Empire. Germany is now one of the leading nations of Europe. Austria-Hungary is also a leading nation of Europe, yet it is composed of distinct races and nationalities with separate sympathies and aspirations, and this fact is a source of weakness to the empire. In Switzerland there is a strong bond of national unity, though there are three distinct nationalities each with its distinct language.

The United States transcends all other nations in the variety of races and nationalities held together by a strong bond of sympathy. To Americanize means to teach an immigrant Russian or Bohemian to speak and read English and to have a sense of common inheritance with Puritans and Cavaliers. To become a citizen of the United States the immigrant must renounce all allegiance to foreign powers, and must declare supreme allegiance to his adopted country. There are thus many nationalities composing one state, or nation.

(2) Since Americans apply the word *state* to a minor subdivision of their country it is inconvenient to apply

the same word to the country as a whole. Yet this is the sense in which the term is used in Political Science. The United States as a whole is a State, as Russia is a State. Canada has many of the characteristics of an independent State, yet, since allegiance to the Crown is recognized, it is not a State, but the British Empire as a whole is one State.

Human beings are found without any distinguishable organization, even the family not being recognizable. Of such human beings Political Science can take no account, except as the raw material of society. The science deals wholly with organic relations of men. The *State* is the term used to designate the chief organization apart from the family. If a family or group of families live together in an orderly way and are subject to no higher organization they are recognized as a State. The family or group, however, even though they may be bound together by custom and law, are not a State in the full sense until they become fixed to the soil. The word State, in Political Science, is an ideal term used in the study of man's political nature.[1] Every actual State is rudimentary, or imperfect; yet among progressive peoples the particular States are but stages in the working out of the perfect State. The perfect or ideal State includes the whole human race and it aims to express objectively the brotherhood of man.

The State is not to be confused with *Government.*[2] The government of a State may be centered in one person, and if governing were the sole business of the

state, this person would represent its whole function. Louis XIV. exclaimed, "I am the State." He was indeed a temporary ruler, but in his time the French State was the product of centuries of growth. The French Revolution destroyed the monarchy, but it did not destroy the State. On the contrary it gave to it new life.

(3) If the monarchs of France had succeeded in making themselves permanent and absolute rulers, the effect would have been in time the destruction of the State. India is an illustration of States thus destroyed. The life of a State is dependent upon the common feeling, sentiment, will and purpose of the people. If the government or the agents through which the State acts tends to strengthen the common purpose and to express the common will, the State is strengthened. If, on the other hand, the government tends to thwart the common purpose, the State is weakened. States do not exist for the sake of government, they exist to promote the higher life of the people. In a progressive state governing is only one of the State's functions. Its highest or most characteristic function is education. Between the government and the individual there is always more or less conflict because governments are always imperfect and unjust. Between the State and the individual there can be no conflict, because it is the essential organ for human perfection.

SUPPLEMENTARY READING

CHAPTER II

The State and the Nation

[1] **State Abstractly Considered.**—Finally, as recognized by most modern publicists, and as already indicated, a distinction is to be made between the abstract idea of the State and its empiric conception. The one is the result of abstract speculation, the other of concrete thinking. The first is what the Germans designate "*Staatsidee,*" being the idea of the State in its most general form. It is that idea which embraces all that is essential to, and which is possessed by all types of State life. It is the State reduced to its lowest terms. The empiric conception, on the other hand, is particular, and has reference to special civic types as historically manifested.

The State is an almost universal phenomenon. Everywhere, and in all times, we find men, as soon as their social life begins, submitting to the control of a public authority exercising its powers through an organization termed government. In no two instances do we find the character or scope of this public authority identical or exercising its functions through precisely similar governmental organizations. We recognize, however, that no matter how organized, or in what manner their powers be exercised, there is in all States a substantial identity of purpose; and that underneath all these concrete appearances there is to be found a substantial likeness in nature. If now we disregard all non-essential elements, and overlook inconsequential modifications, we shall be able to obtain those elements that appear in *all* types of State life, whether organized in the monarchical or republican, the despotic or limited, the federal or unitary form. We shall thus discover those characteristics that are of the very essence of the State's life, and which unfailingly distinguish it from other public bodies.

All concrete instances of State that are historically afforded us, are to be considered as embodying the "*Staatsidee*" as their principal essence. Variations in governmental organizations and adminstration are to be considered as merely differences in form that have arisen in response to demands of time, place, and peculiarities of political temperament of the people, but without disturbing the State's fundamental nature.

With this abstract, general conception of the State in our minds, we will be furnished with the criterion for distinguishing between mere variations and anomalous formations of civic life, and those public bodies that resemble, but do not possess this essential element, and are, therefore, not to be dignified with the title State.

* * * * * *

A given ruling organization either embodies and expresses the will of the State, or does not; but in no case can two or more States be spoken of as differing in degrees of perfection. States may differ as to the good or bad qualities of the governmental machinery in which they are organized and through which their wills find expression, but they themselves do not admit of comparative degrees of excellence. In other words, there can be no such thing as an imperfect State, and to maintain that there can be, is only to confound again the ideas of State and Government. —*"The Nature of the State," by Westel Woodbury Willoughby, pp. 14, 15, 17.*

[2] **State and Government.**—The first fundamental distinction that must be made, is that between "State" and "Government." By the term "Government" is designated the organization of the State,— the machinery through which its purposes are formulated and executed. Thus, as we shall see, while the term "State" is, when strictly considered, an abstract term, Government is emphatically concrete. More than that, government is purely mechanical and governed by no general laws. Its varying forms are in all cases determined by political expediency, and the examination of its essential character involves no such philosophical considerations as will interest us in our present inquiry. The subject of government thus lies almost wholly without the field

of political theory, and is comprehended within the domains of descriptive and historical politics.

Simple and definite as is this distinction between the State and its governmental machinery (corresponding as it does very much to the distinction between a given person and the material bodily frame in which such person is organized), we shall find it to be one that has been but seldom made. In fact, it has been the confusion between these two terms that has led directly or indirectly to a great majority of the erroneous results reached by political philosophers in the past.

Nation and People.—From the terms "Nation" and "People" the State is likewise to be dissociated.

In the use of the two former terms the greatest confusion exists. In Germany the word "People" (*Volk*) has primarily and predominantly a political signification, as denoting a body of individuals organized under a single government; while the term "Nation" (*Nation*) is reserved for a collection of individuals united by ethnic or other bonds, irrespective of political combination. According to this use, "a nation is an aggregate of men speaking the same language, having the same customs, and endowed with certain moral qualities which distinguish them from all other groups of like nature. . . . All people living under the same government compose the 'People' of the State. In relation to the State, the citizens constitute the people; in relation to the human race, they constitute the nation."

* * * * * *

Now when we say that it is these influences of race, religion, custom, language, and history that create a nation, we mean that from these sources spring the feeling or sentiment that binds together a community of people and constitutes from them a nation. Each of these factors invites the formation of a nation, but no one of them compels it. The essential principle is the feeling that is the result of one or more of these factors. Thus, as says Renan: "A nation is a spiritual principle, resulting from the profound complications of history; a spiritual family, not a group determined by the configuration of the soil. . . A nation is, then, a great solidarity constituted by the sentiment of the

sacrifices that have been made, and by those which the people are disposed to make. It supposes a past; it is, however, summed up in the present by a tangible fact: the consent, the clearly expressed desire of continuing the common life. The existence of a nation is (if the metaphor be permissible) a continued *plebiscitum*, as the existence of the individual is a perpetual affirmation of life." According to Mill, "a portion of mankind may be said to constitute a nationality if they are united among themselves by common sympathies which do not exist between them and others — which make them coöperate with each other more willingly than with other people, desire to be under the same government, and desire that it should be government by themselves, or a portion of themselves, exclusively."

The tendency, of course, is as indicated in Mill's definition, for nations to constitute themselves as individual States, and it may be said that this demand for political unity constitutes the surest index to the existence of a national feeling. Hence, most publicists see in the national State the most perfect type of political development thus far attained.

The advancing enlightenment of the masses has been instrumental in creating the true feeling of nationality, that is to say, a demand for unity based upon some other ground than mere coercive political control; and the present century has seen the enormous influence that this principle has had in reforming the political map of Europe. At the same time, the point may be made that it is not too much to expect that this same spirit of enlightenment that has thus given rise to this demand for a redemarkation of political boundaries will, in turn, as civilization continues to advance, make this demand less imperative.—*Ibid., pp. 8, 9, 11, 12, 13.*

CHAPTER III

THE FAMILY AND THE ORIGIN OF THE STATE

A STUDY of primitive society gives color to the belief that in the origin of the *family* the mother is often the chief person. The members of the family are known simply as descended from a common mother who is the head of the family.[1] Men are recognized as sons and not as fathers. The chiefs for leadership in war are named by mothers as the heads of organized society. The change from the mother to the father as the head of the family may be accounted as a victory of force over the primary organizing sentiment. In any event these two principles are found in all phases of the development of the State. There are the primitive sentiments and feelings binding the people together; then there is the exercise of superior brute force, which often tends to destroy the sentiments upon which the life of the state depends.

(1) As we seek to trace historic states back to their origin we reach families of which the father is the recognized head. Sometimes the incipient State is built up around a venerated patriarch; sometimes the heads of families meet on terms of equality, devise means of composing their difficulties and of living together in harmony; sometimes a warrior of unusual courage and

prowess is made the center about whom families and kinsfolk are grouped. Whatever may be the form of the original organization of the incipient State, the family is the chief unit of organization.[2] The early State is an organization supplemental to the family and knows only families. It reaches the individual only through the family. It may be called an enlarged family, or a federation of families. As an incident to war or pestilence families are broken up, detached individuals are left. These either perish or are incorporated into other families. No provision is made for an individual apart from a family. In early society one form of the death penalty is banishment. In the case of such individuals they may be restored to life by adoption into a family. The adopted person may be admitted on terms of equality or he may be assigned to a position of servitude. This is one way in which a distinction arises between the free and the unfree.

(2) In time of extended wars or migrations, or if for any reason a considerable number of persons are together detached from their ordinary family relations, they may overcome the difficulty by creating an artificial family. That is, persons not actually akin may pledge themselves to treat each other as members of a family. They may agree to pay each other's fines, to bear each other's punishments, and in all ways to answer to the State as if they were a natural family.

The family is thus the original school of politics; it is the model for the primitive State. For a long time

the Family overshadows the State. Even at a time when Rome was a mighty empire the Roman father retained the power of life and death over his son.

(3) The primitive State was without distinct governing agencies. In fact, in the sense of a distinct ruling class there was no government. Whether the families which composed the village, or State, were grouped about a patriarch or a warrior, or were associated together on terms of equality, they lived according to family customs. There was no distinction between domestic and political life. No one was in a position to command obedience. There was not a clear distinction between ruler and subject. Slavery was one agency which tended greatly to diversify the primitive State. When the detached individual had to find a master in order to live, when he was compelled to sell himself, body and limb, then there was established the distinct relation of ruler and ruled; there was established the relation in which one man commands and another obeys. Among the earliest forms of private property was property in slaves. The earliest aristocracy were those whose ancestors had never bowed the neck to slavery, to a master.

(4) In the earliest times wars were undertaken for defense or booty. Neighbors and kinsfolk stood shoulder to shoulder in battle according to custom, under such leaders as were extemporized for the occasion. As slavery increased, as men became accustomed to give commands to slaves, leaders in war ac-

quired the habit of commanding soldiers. Wars were undertaken for conquest. The conquered peoples were reduced to slavery, or they were permitted to retain their liberty upon condition of paying tribute. The habit of command over freemen in time of war tended, as wars became frequent and prolonged, to place the leader of the host in a permanently commanding position. The little community of kinsfolk who constituted the primitive State found themselves associated with other villages who were each accustomed to furnish a company of soldiers. And these were associated with other companies which together made up an army. For military purposes the primitive State became subject to a larger one. The military chiefs magnified their office and became centers for the organization of a larger state, including the primitive States as subordinate divisions.

(5) It should be borne in mind that when this larger military State was organized it did not take the place of the older primitive State; it rather supplemented it. In course of time the early form was much changed or modified. But in the case of our Anglo-Saxon ancestors the primitive local organizations were never entirely supplanted. The primary sentiment on which the family is founded was not destroyed when the father became the head of the family, but remained as a potent factor in the founding and maintenance of States. In like manner the habit of coöperation acquired in the primitive village is a state-building factor.[3]

SUPPLEMENTARY READING

CHAPTER III

The Family and the Origin of the State

[1] **Treating of Relationships.**—It is necessary to distinguish between two very different types of ethnical organization, one of which is obviously much older than the other. The older may be named the metronymic. In the metronymic group all relationships are traced through mothers; paternal relationships are ignored. Every metronymic social group is named from some class of natural objects, such as a species of plants or of animals, which is thought of as feminine in gender, and from which the group is supposed to have sprung. A class of objects so regarded is known among ethnologists as a totem, which is approximately its American Indian name. The totem is worshiped as a protecting being and is itself protected by the group from harm. The latter type of social organization may be called patronymic. Each patronymic group is named from a real or fictitious male ancestor, and relationships are traced in the male line, through fathers. Each of these group types, again, may be observed in an early and simple form, in which a single tribe is the largest social organization, and in a later, compound form, in which several tribes are confederated and at length are consolidated into a folk. —*"Principles of Sociology," by Franklin Henry Giddings, pp. 158, 159.*

[2] **Archaic Law.**—It is just here that archaic law renders us one of the greatest of its services and fills up a gap which otherwise could only have been bridged by conjecture. It is full, in all its provinces, of the clearest indications that society in primitive times was not what it is assumed to be at present, a collection of *individuals.* In fact, and in the view of the men who composed it, it was *an aggregation of families.* The contrast may be most

forcibly expressed by saying that the *unit* of an ancient society was the Family, of a modern society the Individual.

We must be prepared to find in ancient law all the consequences of this difference. It is so framed as to be adjusted to a system of small independent corporations. It is therefore scanty, because it is supplemented by the despotic commands of the heads of households. It is ceremonious, because the transactions to which it pays regard resemble international concerns much more than the quick play of intercourse between individuals.

Above all it has a peculiarity of which the full importance cannot be shown at present. It takes a view of *life* wholly unlike any which appears in developed jurisprudence. Corporations *never die,* and accordingly primitive law considers the entities with which it deals, *i. e.,* the patriarchical or family groups, as perpetual and inextinguishable. This view is closely allied to the peculiar aspect under which, in very ancient times, moral attributes present themselves.

The moral elevation and moral debasement of the individual appear to be confounded with, or postponed to, the merits and offences of the group to which the individual belongs. If the community sins, its guilt is much more than the sum of the offences committed by its members; the crime is a corporate act, and extends in its consequences to many more persons than have shared in its actual perpetration. If, on the other hand, the individual is conspicuously guilty, it is his children, his kinsfolk, his tribesmen, or his fellow-citizens, who suffer with him, and sometimes for him.

It thus happens that the ideas of moral responsibility, and retribution, often seem to be more clearly realized at very ancient, than at more advanced periods, for, as the family group is immortal, and its liability to punishment indefinite, the primitive mind is not perplexed by the questions which become troublesome as soon as the individual is conceived as altogether separate from the group. One step in the transition from the ancient and simple view of the matter to the theological or metaphysical explanation of later days is marked by the early Greek notion of an inherited curse. The bequest received by his posterity from the original

criminal, was not a liability to punishment, but a liability to the commission of fresh offences which drew with them a condign retribution; and thus the responsibility of the family was reconciled with the newer phase of thought which limited the consequences of crime to the person of the actual delinquent.

. . . In most of the Greek states and in Rome there long remained the vestiges of an ascending series of groups out of which the State was at first constituted. The Family, House, and Tribe of the Romans may be taken as the type of them, and they are so described to us that we can scarcely help conceiving them as a system of concentric circles which have gradually expanded from the same point. The elementary group is the Family, connected by common subjection to the highest male ascendant. The aggregation of Families forms the Gens or House. The aggregation of Houses makes the Tribe. The aggregation of Tribes constitutes the Commonwealth. Are we at liberty to follow these indications, and to lay down that the commonwealth is a collection of persons united by common descent from the progenitor of an original family? Of this we may at least be certain, that all ancient societies regarded themselves as having proceeded from one original stock, and even labored under an incapacity for comprehending any reason except this for their holding together in political union. The history of political ideas begins, in fact, with the assumption that kinship in blood is the sole possible ground of community in political functions; nor is there any of those subversions of feeling, which we term emphatically revolutions, so startling and so complete as the change which is accomplished when some other principle — such as that, for instance, of *local antiguity* — establishes itself for the first time as the basis of common political action. It may be affirmed then of early commonwealths the citizens considered all the groups in which they claimed membership to be founded on common lineage.—*"Ancient Law," by H. S. Maine, pp. 121-124.*

[3] **The Early English Moot.**—In its Moot, the common meeting of its villages for justice and government, a slave had no place or voice, while the læt was originally represented by the lord whose land he tilled. The life, the sovereignty of the set-

tlement resided solely in the body of the freemen whose holdings lay round the moot-hill or the sacred tree where the community met from time to time to deal out its own justice and to make its own laws.

Here new settlers were admitted to the freedom of the township, and by-laws framed and headman and tithing-man chosen for its governance. Here plough-land and meadow-land were shared in due lot among the villagers, and field and homestead passed from man to man by the delivery of a turf cut from its soil. Here strife of farmer with farmer was settled according to the "customs" of the township as its elder men stated them, and four men were chosen to follow headman or ealdorman to hundred-court or war. It is with a reverence such as is stirred by the sight of the head-waters of some mighty river that one looks back to these village-moots of Friesland or Sleswick. It was here that England learned to be a "Mother of Parliaments."

A humorist of our own day has laughed at Parliaments as "talking shops," and the laugh has been echoed by some who have taken humor for argument. But talk is persuasion, and persuasion is force, the one force which can sway freemen to deeds such as those which have made England what she is. The "talk" of the village moot, the strife and judgment of men giving freely their own rede and setting it as freely aside for what they learn to be the wiser rede of other men, is the groundwork of English history.

Small therefore as it might be, the township or village was thus the primary and perfect type of English life, domestic, social, and political. All that England has been since lay there. But changes of which we know nothing had long before the time at which our history opens grouped these little commonwealths together in larger communities, whether we name them Tribe, People, or Folk. The ties of race and kindred were, no doubt, drawn tighter by the needs of war. The organization of each Folk as such, sprang in all likelihood mainly from war, from a common greed of conquest, a common need of defence.—*"History of the English People," by John Richard Green, pp. 12, 13.*

CHAPTER IV

THE LAND AND THE STATE

THE organization which we call the State may begin before the people have a permanent abiding place. Families may be united into tribes, and there may be a hierarchy of chiefs and councilors; there may be priests, medicine-men and wonder-workers. But so long as the people live by hunting and fishing, so long as they move from place to place there can be little progress. The migratory State soon reaches its limit. Yet this primitive organization of the people apart from the land had a great and abiding influence. The early kings were kings of the people, not kings of a country. There were kings of the English before there was a king of England. The habit of thinking and speaking of the people as a body apart from the land continued long after they had gained a permanent abiding place.

(1) What we are accustomed to call a State comes into existence when a pre-existing organized community gains exclusive control of a definite area of land.[1] The *primitive village State* was a community of farmers. The energies of the State were taxed to the utmost in learning the uses of land and the care of domestic animals, and in settling the many perplexing questions incident thereto. As the State mastered

Copyright by Underwood & Underwood

Capitols of the World

PARLIAMENT BUILDING, BERLIN, GERMANY

these initial difficulties and a surplus of goods accumulated, temptation was offered to the rapacity of powerful neighbors. An age of violence ensued in which the courageous, the powerful, the aggressive lived by plunder. At the end of the age of violence, or rather as one stage in its progress, the educated farmer found himself subject to the educated warrior. The village community found that instead of owning the land which they had learned to cultivate, a warrior owned both the land and the farmers as well. This is known as the *Feudal State.*[2]

(2) In the fully developed Feudal State the nominal ownership of the land passed into the hands of the grand suzerain, or king. The king gave to his chief warriors the perpetual use of large tracts of land on condition of their allegiance. These great lords would sublet the land in smaller tracts to lesser lords on a similar condition of the rendering of feudal dues and assistance in war. There were thus often four or five grades of warriors (the Vassals) supported from the same land. The lowest class in the Feudal State was the serfs who were bound to the soil. The Feudal State was little more than a system of farming devoted to the purposes of war. The great lords who held their lands under a feudal oath which bound them to support the king spent much of their time in fighting against the king. Much time they spent in fighting among themselves. And kings supported by a united tenantry fought against kings.

(3) The feudal states of western Europe were the result of a fusion between the village communities of the north and the Roman Empire in the south. The Empire went to pieces and the tribes of the north were conquerors. The conquering chiefs learned many lessons in government from the Romans, while the village community formed the basis of the State. The older village State became a manor on a lord's estate, and the villagers became serfs. The lords became magistrates administering law, as well as military chiefs commanding obedience; and all were supported by dues exacted from the soil.

(4) There is a vast difference between a serf, or a slave bound to the soil, and a slave owned as an individual subject to the direct commands of a master. The serfs were the farmers upon whom the life of the State depended. They served subject to the rules of farming. They were under law, and law means liberty. The master did not have unlimited command. The serfs came to understand their rights better than did their changing masters. They were at the base of supplies and their share tended to increase. Throughout the feudal hierarchy those who were next to the soil tended to gain in strength at the expense of those above them. This tendency was often checked by acts of violence and robbery, but where feudal law and custom were allowed to run their course the lower ranks gained at the expense of the higher. The mere fact that the serf was bound to the soil gave him a

measure of freedom. He was under law, and law limited the power of the master and secured to the serf his rights. These rights grew in number and importance until, in course of time, the serf had become a free laborer working on the land under contract.[3] In some cases the lords encouraged the substitution of contract for serfdom. Against their will serfs had freedom forced upon them.

(5) In the Feudal State there was perpetual conflict between the king and the great lords. In France the king finally triumphed, and a conspiracy was formed by the king with the great lords and clergy against the people, which led up to the French Revolution. In Germany the great lords prevailed, and a number of small States was the result, while the people retained more of their feudal liberties. In England a balance of power was maintained between the king, lords, clergy and people until, in the present century, a trained and enfranchised Democracy has gained control of the government.

In all the nations of Europe the feudal system had the effect of anchoring the State to the land. Not only did the law of the state become the law of the land, but a very large proportion of the laws had to do with the use and management of land. The Feudal State began to weaken with the growth of commerce and manufacture. It was adapted only to a State supported by agriculture. It was not adapted to the control of city populations.

SUPPLEMENTARY READING

CHAPTER IV

The Land and the State

[1]**The State Composed of People.**—The highest idea of the State is beheld when the tendency of human nature to political society is considered, and the highest conceivable and possible development of this tendency is regarded as the political end of mankind.

If we consider the great number of States which history presents to us, we become aware at once of certain common characteristics of all States; others are only seen on closer examination.

First, it is clear that in every State a number of men are combined. In particular States the number may be very different, some embracing only a few thousands, others many millions; but, nevertheless, we cannot talk of a State until we get beyond the circle of a single family, and until a multitude of men (*i. e.,* families, men women, and children) are united together. A family, a clan, like the house of the Hebrew patriarch, Jacob, can become the nucleus round which, in time, a greater number gathers, but a real State cannot be formed until that has happened, until the single family has broken up into a series of families, and kindred has become extended to the race. The horde is not yet a tribe (*Völkerschaft*). Without a tribe, or, at a higher stage of civilization, without a nation (*Volk*), there is no State.

There is no normal number for the size of the population of a State: Rousseau's number of 10,000 men would certainly not be sufficient. In the middle ages such small States could exist with security and dignity; modern times lead to the formation of much greater States, partly because the political duties of the modern State need a greater national force, partly because the increased power of the great States readily becomes a danger and a menace to the independence of the small.

Secondly, a permanent relation of the people to the soil is necessary for the continuance of the State. The State requires its territory: nation and country go together.

Nomadic peoples, although they have chiefs to command them and law to govern them, have not yet reached the full condition of States until they have a fixed abode. The Hebrew people received a political training from Moses, but were not a State until Joshua settled them in Palestine. In the great migrations at the fall of the Roman empire, when peoples left their old habitations and undertook to conquer new ones, they were in an uncertain state of transition. The earlier States which they had formed no longer existed; the new did not yet exist. The personal bond continued for a while — the territorial connection was broken. Only if they succeeded in regaining a sure footing were they enabled to establish a new State. The peoples who failed, perished. The Athenians under Themistocles saved the State of Athens on their ships, because after the victory they again took possession of their city; but the Cimbri and Teutons perished, because they left their old home and failed to conquer a new one. Even the Roman State would have perished, if the Romans, after the burning of their city, had migrated to Veii.— *"The Theory of the State," by J. K. Bluntschli, pp. 15-17.*

[2] **The Feudal State.**—Under the absolute monarchy of the Roman empire, all the appointments to public office, high or low, were in the hands of the monarch, and remained always at his direct disposal, so that he could recall them at will. And more than this, the public officer neither owned the soil of the province which he governed, nor did he have any rights of government over the landed properties which he might possess as a simple citizen. He was, therefore, amenable, as proprietor, to the civil law of the whole empire, and as governor to the arbitrary will of the sovereign. The feudal system was just the reverse of this. A lord who granted, as an inferior fief, a certain part of his own fief, made over to the grantee or vassal at the same time both the property and the sovereignty over it, neither of which he could reclaim unless the vassal failed in some of the services agreed to by him when he received investiture.

If one lord wished to obtain land from another and become his vassal, he must seek him out, and then the ceremony of "homeg" took place between the two; the would-be vassal must kneel before his future lord, and placing his hands in those of the latter, must declare in a loud voice that from that time forward he would be his man (*homo*), that is, that he would be devoted and faithful to him, and would defend him at the risk of his own life, much as the ancient Germans did in the *comitatus* relationship. After this declaration, which was really the "homage," he gave the lord his oath of fealty or of faith, and swore to perform all the duties which devolved upon him from his new relation of vassal of his lord. After the vassal had performed this double ceremony, the lord did not fear to entrust his land to the man who was so strongly bound to him, and granted it to him by "investiture," which was often accompanied by some symbol, a clod of turf, a stone, a switch, a branch of a tree, or any other object, according to the custom of the fief. Otto of Freising says: "It is customary when a kingdom is delivered over to anyone that a sword be given with it, when a province is transferred, a standard is given."

In the first place, the vassal was under certain moral obligations to his lord, those of keeping his secrets, of disclosing to him the plots of his enemies against him, of defending him, giving him his horse in battle, if the latter were unhorsed, or of taking his place in captivity; of respecting his honor and causing others to do the same; of assisting him with good advice, etc. The material obligations or the service owed by the vassal were of various kinds:

I. Military service, which was the very foundation of the feudal relation, and the principle by which this state of society, which knew nothing of standing and paid armies, existed. The vassal was obliged, at the bidding of his lord, to follow him either alone or with a certain number of men, according to the importance of his fief. The duration of this service also varied in proportion to the size of the fief; in some cases it was sixty days, in some forty, and in others twenty, a variation which made distant expeditions impossible, and made the forces thus

raised available only for wars in the near vicinity, or for private wars. There were fiefs where military service could only be claimed within the limits of the feudal territory, or even only for defense.

II. The obligation to serve the suzerain in his court of justice. As under the feudal régime the lord filled the place of the State and was invested with the functions of the public power, he was obliged, in order to exercise these functions, to collect about him the powers divided by his vassals. Making war was one of his functions and the administration of justice another. The lord summoned his vassals to come to his courts, and it was their duty to come either to serve him with their counsel or to take part in judging the quarrels that were brought before him. They also promised to give their assistance in carrying out the sentences which they had pronounced.

III. The aids, some of which were legal or obligatory, the others gracious or voluntary. The legal aids were generally due in three cases; where the lord was made prisoner his ransom was to be paid; when he armed his eldest son as knight, and when he married his eldest daughter. The aids took the place of the public taxes of the ancient and modern States, but were of a very different character, as we have seen; they neither recurred at regular intervals nor were exacted by a general system for the public needs; but they had the appearance of a voluntary gift, given under especial circumstances. An annual impost would have seemed like an affront to the vassals.

In addition to these services we must mention certain feudal rights by which a lord, in virtue of his sovereignty, could interfere in any important changes occurring on a fief granted by him to a vassal. Some of these were sources of new revenues to him. The rights were those of *relief*, a sum of money paid by each heir on his succession to a fief, especially if his succession was not in the direct line; of *alienation*, which must be paid by anyone who should sell or in any way alienate his fief; of *escheat* and of *confiscation*, by which the fief returned to the possession of the suzerain if the vassal died without heirs, or if he had forfeited it and deserved to be deprived of it; of *ward-*

ship, in virtue of which the lord during the minority of a vassal assumed his guardianship, the administration of his fief, and used the revenues; and finally the right of *marriage,* that is the right of proposing a husband to the heiress of a fief and of obliging her to choose one among the lords whom he presented to her.

The vassal who performed all his services with exactness was virtually master of his fief. He could grant either a part or the whole of it to others, and become in his turn suzerain lord of vassals of a lower rank, or of *vavassors* (valvasors), who owed him services of the same kind that he had promised to his own suzerain. In this way a hierarchy was built up.

The suzerain had obligations as well as the vassal. He could not withdraw his fief from his vassal arbitrarily, or without good cause; he must defend him if he were attacked, and treat him with justice, etc.—*"History of the Middle Ages," by Victor Duruy, pp. 201-204.*

[3] **Law of Status.**—It is connected with this fixity that jurists tell us that the title "contract" is hardly to be discovered in the oldest law. In modern days, in civilized days, men's choice determines nearly all they do. But in early times that choice determined scarcely anything. The guiding rule was the law of *status.* Everybody was born to a place in the community; in that place he had to stay; in that place he found certain duties which he had to fulfill, and which were all he needed to think of. The net of custom caught men in distinct spots, and kept each where he stood.—*"Physics and Politics," by Walter Bagehot, Humboldt Library of Science, No. 3, p. 144.*

CHAPTER V

CHURCH AND STATE

ARISTOTLE defined man as a political animal. Not less characteristically may man be defined as a religious being. Surely it is as easy to find men without political institutions as to find them without religious institutions. In former lessons we have seen that among the binding forces of the state are a sense of kinship and a feeling of nationality. These feelings and sentiments are always closely associated with a common worship, common beliefs respecting unseen powers, common fears, common hopes, and aspirations. The character of the State is in large part determined by the character of its religion. The term Christendom designates the progressive nations, while all others are relatively non-progressive and reactionary. To omit the Church in a discussion of the origin of the modern State would be to omit the chief formative influence.

(1) In the midst of the most powerful, relentless and effective empire that the world has known the early Christians preached and practiced supreme obedience to a greater than Cæsar. They taught that men ought to obey God rather than man. In some things they submitted to Roman rule; in other things they preached and practised disobedience, while in all

things they professed supreme allegiance to the Higher Power. Rome was to be obeyed only so far as such obedience was consistent with this supreme allegiance. The Church entered into competition with the State for the obedience of its subjects. For more than three hundred years the Church remained wholly distinct from the State. It had won to its allegiance the better half of the Roman Empire. An elaborate ecclesiastical authority had grown up. It was a growing sense of the power of the Church that led Constantine to repudiate heathenism and to adopt the Christian religion as that of the State.

(2) There were thus many generations of Christians who were trained to habits of obedience to a power higher than the State. They were trained to habits of conscientious disobedience to some of the commands of the State. They arraigned the corrupt practices of the State at the bar of public conscience. The text-book of the Christian abounded in examples of righteous men denouncing the evil practices of kings. It is this principle especially that explains the difference between European and Asiatic civilization. In Europe no ruler either in Church or State is so powerful as to be exempt from denunciation. Among the subjects there is the sense of the higher law to which rulers also are subject. And there have ever been those who at the risk of their lives have been willing to proclaim the higher law against corrupt rulers. In Asia this effective appeal has been wanting and law has been

ST. PETER'S AND THE VATICAN, ROME

frozen into caste, and power has degenerated into irresponsible despotism. In Asia there were no citizens who could effectively arraign the rulers before the public for their corrupt practices.

When Christianity was made the state religion the Church as a governing body did not become wholly subject to the State. It was at a time when the Roman Empire was going to pieces. The Christian hierarchy was built up on the ruins of the Empire. The church gathered to itself the organizing experience and ability of the Empire. As the Empire was dissolved by the incursions of the barbarians the Church remained as the one conspicuous bond of union and became the chief agency in the preservation of ancient civilization; the chief agency in the almost hopeless task of bringing the barbarous hordes under the reign of law. During the early middle ages kings could not succeed in ruling except as they gained the coöperation of the clergy. The clergy had a monopoly of learning and statesmanship. Later, when the kings and their lay subjects became relatively more capable, the clergy remained as important competitors for power.

(3) As officers exercising a part of the authority of the State the clergy were often corrupt and tyrannical. Yet the fact that kings were obliged to reckon with the power of the Pope and the higher clergy was on the whole favorable to the liberties of the subject. The feudal lord was less brutal because of the presence of bishop and priest. There was a continual dispute as to

who held supreme authority. The Popes asserted authority over kings. Bishops contended against kings for power. The lower clergy often united with the people against kings and bishops. The uncertainty as to the limits of power was favorable to the growth of freedom.

The Roman Empire proposed to rule the world. The Christian Church at all times looked forward to the establishment of a righteous State for the human race called the Kingdom of Heaven. As the Roman Empire fell the Christian hierarchy magnified their office. It was through the Church that the memory and something of the substance of the old empire was preserved under the title " Holy Roman Empire." [1] The memory of the old empire had an immense effect upon the newly converted barbarian kings. It was of great advantage to the Church that it was the most effective visible expression of the unity of the empire. It was from the Church that the Holy Roman Empire received its significance. The most powerful Christian kings aspired to be crowned as successors to the Cæsars. This idea dominated the mind of rulers until the Church itself was rent in twain; till some of the most powerful of European states became Protestant. Even with the entire fading out of the Holy Roman Empire, the Christian idea of the union of the race, the federation of man, still remains. This idea gives new meaning to the word humanity, new emphasis to the brotherhood

of man.[2] It seeks objective expression in the law of nations, as also in a Parliament of Religions.

(4) There has been much discussion as to the proper relation of Church and State. We may be sure that this debate will continue indefinitely, for the object aimed at by both Church and State is identical. It is to secure just and right relations among men, that is, to perfect the race. The ideal State and the ideal Church are identical.

There is a Greek word which in the New Testament is sometimes translated *justice* and sometimes *righteousness*. The Church has succeeded best in its teaching function. It has attended preëminently to states of mind, to subjective conditions, to the attainment of a consciousness of righteousness, to a realization of truth in the inner parts. The Church aims at *righteousness*. In the rough brutal ages of the past the State has concerned itself chiefly with external relations. It has wielded the sword. It has sought to mend by destroying the most obvious enemies of righteousness. It has sought to establish tolerable courses of conduct among men. The State aims at *justice*. But as the age of brute force recedes the State too is driven to rely more and more upon teaching, it must rely more and more upon the attainment of justice through the righteous citizen.

SUPPLEMENTARY READING

CHAPTER V

Church and State

[1] **The Holy Roman Empire.**—From the coronation of Otto the Great a new period begins, in which the ideas that have been described as floating in men's minds took clearer shape, and attached to the imperial title a body of definite rights and definite duties. It is this new phase, the Holy Empire, that we have now to consider.

The realistic philosophy, and the needs of a time when the only notion of civil or religious order was submission to authority, required the World-State to be a monarchy; tradition, as well as the continuance of certain institutions, gave the monarch the name of Roman Emperor. A king could not be universal sovereign, for there were many kings: the Emperor must be, for there had never been but one Emperor; he had in older and brighter days been the actual lord of the civilized world; the seat of his power was placed beside that of the spiritual autocrat of Christendom. His functions will be seen most clearly if we deduce them from the leading principle of mediæval mythology, the exact correspondence of earth and heaven. As God, in the midst of the celestial hierarchy, ruled blessed spirits in paradise, so the Pope, His vicar, raised above priests, bishops, metropolitans, reigned over the souls of mortal men below. But as God is Lord of earth as well as of heaven, so must he (the *Imperator coelestis*) be represented by a second earthly viceroy, the Emperor (*Imperator terrenus*), whose authority shall be of and for this present life. And as in this present world the soul cannot act save through the body, while yet the body is no more than an instrument and means for the soul's manifestation, so must there be a rule and care of men's bodies as well as of their

souls, yet subordinated always to the well-being of that which is the purer and the more enduring. It is under the emblem of soul and body that the relation of the papal and imperial power is presented to us throughout the Middle Ages. The Pope, as God's vicar in matters spiritual, is to lead men to eternal life; the Emperor, as vicar in matters temporal, must so control them in their dealings with one another that they may be able to pursue undisturbed the spiritual life, and thereby attain the same supreme and common end of everlasting happiness. In the view of this object, his chief duty is to maintain peace in the world, while towards the church his position is that of Advocate, a title borrowed from the practice adopted by churches and monasteries of choosing some powerful baron to protect their lands and lead their tenants in war. The functions of Advocacy are twofold: at home to make the Christian people obedient to the priesthood, and to execute their decrees upon heretics and sinners; abroad to propagate the faith among the heathen, not sparing to use carnal weapons. Thus does the Emperor answer in every point to his antitype the Pope, his power being yet of a lower rank, created on the analogy of the papal, as the papal itself had been modelled after the elder Empire. The parallel holds good even in its details; for just as we have seen the churchman assuming the crown and robes of the secular prince, so now did he array the Emperor in his own ecclesiastical vestments, the stole and the dalmatic, gave him a clerical as well as a sacred character, removed his office from all narrowing associations of birth or country, inaugurated him by rites every one of which was meant to symbolize and enjoin duties in their essence religious. Thus the Holy Roman Church and the Holy Roman Empire are one and the same thing, in two aspects; and Catholicism, the principle of the universal Christian society, is also Romanism; that is, rests upon Rome as the origin and type of its universality; manifesting itself in a mystic dualism which corresponds to the two natures of its Founder. As divine and eternal, its head is the Pope, to whom souls have been entrusted; as human and temporal, the Emperor, commissioned to rule men's bodies and acts.

In nature and compass the government of these two potentates is the same, differing only in the sphere of its working; and it matters not whether we call the Pope a spiritual Emperor or the Emperor a secular Pope. Nor, though the one office is below the other as far as man's life on earth is less precious than his life hereafter, is therefore, on the older and truer theory, the imperial authority delegated by the papal. For, as has been said already, God is represented by the Pope not in every capacity but only as the ruler of spirits in heaven: as sovereign of earth, He issues His commission directly to the Emperor. Opposition between two servants of the same King is inconceivable, each being bound to aid and foster the other; the cooperation of both being needed in all that concerns the welfare of Christendom at large. This is the one perfect and self-consistent scheme of the union of Church and State; for, taking the absolute coincidence of their limits to be self-evident, it assumes the infallibility of their joint government, and denies, as a corollary from that infallibility, the duty of the civil magistrate to root out heresy and schism no less than to punish treason and rebellion. *"The Holy Roman Empire," by James Bryce, pp. 103-107.*

[2] **Kinship of Races.**—Even at the present day all Europe feels every disturbance in any particular state as an evil in which she has to suffer, and what happens at her extremest limits immediately awakens universal interest. The spirit of Europe already turns its regard to the circuit of the globe, and the Aryan race feels itself called to manage the world.

We have not yet got so far: at the present day it is not so much will and power that are wanting as spiritual maturity. The members of the European family of nations know their superiority over other nations well enough, but they have not yet come to a clear understanding among themselves and about themselves. A definite result is not possible until the enlightening word of knowledge has been uttered about this and about the nature of humanity, and until the nations are ready to hear it.—*"The Theory of the State," by J. K. Bluntschli, p. 31.*

CHAPTER VI

LAW AND THE STATE

EFFECTIVE knowledge is a knowledge of law. As man learns the processes of force in nature he gains the mastery of nature. Vegetable life takes nothing from the other forces of nature, but it adds something to them. Animal life, while destroying nothing, yet adds to life sensation and locomotion. Human life, while subject to all the forces of nature, to all the conditions of life in plant and animal, adds yet the power of conscious self-direction to a moral end. Law in the mineral world is not the same as law in plant and animal. But law in plant and animal is the same as law in the mineral world with something added. So law in the animal world is not the same as law in human society. But law in human society is the same as law in the animal world with something added. Man is a political animal because there is in man a moral sense to which appeal may be made in favor of right conduct; because man recognizes a higher law and seeks to realize the yet unattained. Law in nature is uniform fact or force. In human society law rests upon conscience, or the sense of right.

(1) There might be a feeling of kinship, a sense of nationality, a common religion, but unless those who

thus feel are accustomed to live together subject to certain rules and customs there can be no state.[1] The state is the agency whereby the many become one. It is the agency for expressing and carrying into effect the common purpose.

(2) A law is something more than simply the command of a ruler. A master and a million slaves whom he commanded at will could not make or constitute a State. Merely capricious commands of the sovereign tend to destroy law and to dissolve the State. Law must conform to the more or less permanent habits and customs of the people. When the Persian king had given his word that a certain decree was like the laws of the Medes and Persians he was himself no longer free as to the matter decreed. It is of the very nature of law to limit the power of the sovereign.[2] The sovereign is bound by the laws. Except within certain usually narrow limits, he cannot change the law. Capricious commands put forth with the authority of law tend to promote anarchy. Law is something to be recognized and inferred from close attention to the experience of the people, rather than a command of a ruler.[3] Only at rare intervals, when a people previously trained in obedience to law, have been reduced to comparative anarchy, may a new order be established out of hand.

(3) The Romans are the most important contributors to the laws of modern Christian states. The

early Romans were preëminently orderly and law-abiding. The famous Twelve Tables were published about 450 B. C. It was at a time when there was threatened anarchy on account of conflicts between Patricians and Plebeians. The demand of the people was not so much that there should be new enactments as that the rulers should obey the old laws. The Twelve Tables are, for the most part, a summary of existing laws codified and published in order that the common people might know their rights and secure them against tyrannical rulers. At the end of a thousand years, at a time of anarchy and confusion incident to the breaking up of the Roman Empire, Roman law was again summarized in the famous Justinian Code. Roman law grew not so much from the decrees of rulers and the statutes of Senates and assemblies as from the interpretations and amplifications of philosophers and jurists.

There is a tradition that the original publishers of the Twelve Tables were influenced by Greek experience. Certain it is that the amplifiers of the law were greatly influenced by Greek learning and philosophy. Later, as the Empire became Christian and the clergy were the sole learned class, governing was divided between Church and State, and there grew up a body of canon or Church law which was, in a sense, an amplification and specialization of Roman law. Roman history illustrates the principle that law, in order to be effective and enduring, must proceed not from the arbi-

trary will of rulers but from the experience of the people seeking to discover and establish just relations among citizens.

(4) Apart from Roman law the most important contribution to the law of the modern State is the English Common Law.[4] In Rome the law was published to limit the power of rulers. It was made definite and explicit in order that all might understand their rights, and was amplified in accord with these original principles. The law was not left to the indefinite and uncertain decisions of magistrates. There was a constant endeavor to state the law so clearly that there could be no mistake as to its meaning. The barbarous tribes who overran the empire represented a civilization much ruder than the civilization of Rome at the publication of The Twelve Tables. With these barbarians a sense of law was not yet fully acquired.

Outside of England the Roman law gradually displaced the rudimentary law of the barbarians. But the English clung with desperation to their Common Law as declared by their courts. English law has been greatly enriched and modified by students of Roman Law, yet in the Anglo-Saxon world the Common Law has never been wholly displaced.

Whether we look to Roman Law or to the Common Law, each equally illustrates the principle that it is the nature of enduring and effective law that it limit the power of rulers and that it secure to the citizen his rights.

SUPPLEMENTARY READING

CHAPTER VI

Law and the State

[1] **The State.**—It may be said that this is an arbitrary restriction of the term "state." If any other word, indeed, can be found to express the same thing, by all means let it be used instead. But some word is wanted for the purpose, because as a matter of fact societies of men, already possessing rights, and whose dealings with each other have been regulated by customs conformable to those rights, but not existing in the form to which the term "state" has just been applied (*i. e.*, not having a systematic law in which the rights recognized are harmonized, and which is enforced by a power strong enough at once to protect a society against disturbance within and aggression from without), have come to take on that form.

A word is needed to express that form of society, both according to the idea of it which has been operative in the minds of the members of the societies which have undergone the change described (an idea only gradually taking shape as the change proceeded), and according to the more explicit and distinct idea of it which we form in reflecting on the process. The word "state" is the one naturally used for the purpose. The exact degree to which the process must have been carried before the term "state" can be applied to the people in which it has gone on, cannot be precisely determined, but as a matter of fact we never apply it except in cases where it has gone some way, and we are justified in speaking of the state according to its idea as the society in which it is completed.—*"Political Obligation," by Thomas Hill Green, pp. 138, 139.*

[2] **Political Freedom in Relation to Law.**—Freedom of the people, or political freedom, involves the assertion of law. It

subsists in the nation in its normal being. There is in it, therefore, the assertion and the manifestation of law, but it has not therefore a formal ground which would follow if the law was merely external and definitive only of a formal order. The law which is asserted in it, as the form of its action, is the law in the foundation of its being and is realized in its being — in its self-determination, as a moral person. There is thus in law and freedom an inner unity. In the limitations defined in law, there is, therefore, no bondage, but they become the evidence of the emancipation of man.

This emancipation is not indeed in the institution of mere external limitations, which are devoid of all content and may be only obstructions, nor in the mere limitations of formal laws, but in a life which is formed in moral relations, and the laws which are asserted are those which define and regulate those relations. Freedom, in the assertion of law, assumes restraint and accepts obligations in the relations of an organic and moral being, and in these there is no limitation in the sense of hindrance, or as the mere impediment to action. There is in them no barrier, but freedom is wrought through them. It is a divinity that doth hedge us in. The law in the being of personality, instead of the terminus of freedom, is its postulate.—*"The Nation," by E. Mulford, pp. 116, 117.*

[3] **Relations of Law and Justice.**—Particular intelligent beings may have laws of their own making, but they have some likewise which they never made. Before there were intelligent beings, they were possible; they had therefore possible relations, and consequently possible laws. Before laws were made, there were relations of possible justice. To say that there is nothing just or unjust but what is commanded or forbidden, by positive laws, is the same as saying that before the describing of a circle, all the radii were not equal.

We must therefore acknowledge relations of justice antecedent to the positive law by which they are established: as, for instance, if human societies existed, it would be right to conform to their laws; if there were intelligent beings that had received a benefit of another being, they ought to show their gratitude; if one

intelligent being had created another intelligent being, the latter ought to continue in its original state of dependence; if one intelligent being injures another, it deserves a retaliation; and so on.—*"The Spirit of Laws," by Baron de Montesquieu, p. 2*

[4] **Meaning of Common Law.**—Common Law is a rule of action which derives its authority from long usage or established custom, which has been immemorially received and recognized by judicial tribunals. As common law can be traced to no positive statutes, its rules or principles are to be found only in the records of courts and in the reports of judicial decisions. Common law is distinguished from the statute law and from equity. It is wholly overruled by the statute law.—*"The Americana."*

Common Law.—Even today the most important personal or property rights of the citizens may be determined in our courts upon the authority of some ancient decision recorded in the Year-Books, yet having the same force now as at the time of its enunciation centuries since. And it may further be safely affirmed that no one of the fundamental propositions of the common law relating to the liberties of the citizen has been wholly abrogated by legislation, the changes in the body of the law by this process having been more by way of development than excision. The sources in which this ancient but still vigorous system had its origin are to be sought in a past older than the recorded history of our English ancestors, or of their progenitors. Most of the vital principles which animate its substance may be directly traced to those rules of civil government and those stern precepts asserting personal and property rights first declared by the unwritten law, administered by the rude forest courts of the barbarian ancestor of our Saxon and Norman parents, and already established when Cæsar led his victorious legions to the remoter boundaries of Gaul, where, in battle and in treaty, he came to know and respect those sturdy races whose primitive arms and crude laws have developed into, and still actuate, the powers which today and for generations have led in the advance of civilization the world over. Born of the rigor and necessities of their hardy life, reflecting something of their higher aspirations, expressing, it is true, in its inception, the savage principle that

made vengeance the impulse to secure the punishment of an evil-doer, or serve to deter one who would do wrong, this system of law has grown with the growth of the people who framed it. As they emerged from savagery the law moved onward with their progress, and was modified by their enlightenment. The Roman conquest left the imprint of its civilization and its distinct influence upon the laws of the northern subjects of the empire. So that by the time of William the Conqueror, though the dominant law by which he and followers were governed, and which he brought with him to England, was still essentially that of the German barbarian, there were grafted upon it many of the precepts, and much of the philosophy, of the Roman jurist. The necessities of the people, the teaching of their experience, usage based upon the morality of the time, were the foundations of their system of law; defined by no written code, claiming nothing of the mystery of an inspired origin, human in its every fundamental features, sustained by the will, the intelligence, and the virtue of the people, from its beginning to the present day it has had the vitality of human life itself and has survived through all the violent changes and revolutions of religious faith, and has maintained the vigor of its original purpose, the discharge of its intended functions, the establishment of laws for the conduct of human affairs, the determination and protection of personal and property rights, of men, dealing and dwelling with their fellows — without which no society could long endure. * * *

Through the blood of our ancestors, and by rightful inheritance, the common law is our birthright, which scarce needed, therefore, formal adoption by legislation or by the courts. But that of record it might appear to all men, and be gainsaid by none, it has been inscribed upon the pages of our written law. The constitution of Massachusetts declares (Article VI. of Chapter VI.): "All the laws which have heretofore been adopted, used, and approved in the Province, Colony or State of Massachusetts Bay, and usually practiced on in the courts of law, shall still remain and be in full force, until altered or repealed by the legislature; such parts only excepted as are repugnant to the rights and liberties contained in this Constitution." Like pro-

vision was made in the constitutions of the other original States. The constitution of those states, not existing as colonies, embody by reflection like safeguards for the popular liberty and right, and all directly traceable to the body of liberties of the common law.

Though the Constitution of the United States in no words adopts the common law, as part of its composition, its provisions none the less recognize its existence and continuance as the law of the States, with which the National government might not interfere. It was because of a fear that, through the new Federal Constitution, some untried scheme of government might be imposed upon the people and the States, and in order that the old system of law, known and trusted, might still prevail, safe in the will and obedience of those who knew it best, that it was expressly declared that the Federal Government should have in none of its functions any powers save those expressly delegated to it by the Constitution. (Re Barry, 42 Fed. Rep. 113, 118, 120.) But, as has been above noted, the Federal Judiciary, trained to the faith of the common law, have uniformly held that even Federal statutes are to be construed in accordance with the principles of that body of law.

So, by the will of the people, wisely and deliberately exercised and manifest by the declarations of our courts and constitutions, the vast and complex, but stable, system of American law has been builded upon the ancient foundations of the law of England, and the reflecting citizen of the British Empire, though realizing that the prestige of the arms of England was dimmed by the victories of our Revolution, yet is reconciled when he remembers that the same spirit that gave freedom to Englishmen inspired the American patriots, and that the colonists demanded only that liberty of person and conscience which the common law had taught them was the birthright of all mankind.—*"The Americana," Common Law by Herbert Parker.*

QUESTIONS FOR REVIEW. PART I

1. Define history, sociology, political science and political economy. What is the relation of the state to government? Can there be history without progress? What was the Helenic idea of the state?

2. What is a nation? Can there be a nation without a state? Are the Jews a nation? Is Wales? Is the German Empire? Give different meanings of the terms state and nation in America. What is an Asiatic state? What is the abstract conception of a state? What influences tend to give its character to a state? What signification has the German term "Volk"?

3. What is the earliest form of the family? What are the various ways of uniting families into a state? How did slavery originate? What is the effect of war on the early state? State one marked difference between ancient and modern society. What is meant by Archaic law? Describe the early English moot.

4. Can there be a state without definite boundaries? In the primitive state which was more prominent, the people or the land? What was the effect of the feudal system in uniting land and state? How did feudalism arise? What is a serf? What importance has a city for a state? Describe the relation of lords and vassals. How did a vassal differ from a serf?

5. How did the early Christians establish a spirit of criticism of the state? How has the Church favored progress? When has the Church been against progress? What is the actual and what is the ideal relation of church and state? Give the ideal of the Holy Roman Empire.

6. What is the difference between a law and a command of a ruler? What is the object of law? Is law necessary to liberty? What nation has contributed most to the laws of modern Christian states? What is meant by the Common Law? What did Lord Hale say of the Common Law? What is the position of the United States as regards Common Law? Does the Constitution of the United States recognize the Common Law? Why not?

SUBJECTS FOR SPECIAL STUDY

1. The relation of social sciences to each other, as presented by Giddings, Small, and other writers on Sociology and Political Science.

2. The various races of Europe and their relation to states in Europe and America.

3. "The Village Community," Seebohm and Maine.

4. Feudalism.

5. The temporal power of the church. The papal offices.

6. Maine's "Ancient Law."

PART II

Switzerland: A Typical Democracy

CHAPTER I

THE BEGINNING OF SWISS HISTORY

FOR various reasons Switzerland is selected as the first illustration of the embodiment of the principles and forces described in the previous lessons. It is to-day the best illustration of a democratic state. In its history and development, there are striking similarities between Switzerland, and the two other leading democracies, England and the United States.[1] Switzerland is small, and it therefore furnishes an opportunity for the study of state-building in miniature. From its position it throws light upon the play of forces which operated in the formation of the great states of western Europe. Switzerland is of special interest because it has preserved to the present day, traces of the primitive family state.

"As the mountains are round about Jerusalem" so are the lakes, the forests, the snow, the ice, and the mountains round about the valleys of Switzerland. From these heights, water flows to the North Sea through the Rhine, to the Gulf of Genoa through the Rhone, to the Adriatic through the Po, and to the Black

Capitols of the World

GOVERNMENT BUILDINGS, BERN, SWITZERLAND

Sea through the Danube. Not only has this land furnished life-giving water, it has furnished soil to the adjacent countries, ground out by the mighty glaciers of the past, of which there are still hundreds of remnants. Not less important in the making of Europe, are the water and the soil which Switzerland has furnished, than are the principles of liberty and coöperation which its history has illustrated.

(1) Pre-historic Switzerland was occupied by Lake-dwellers.[2] Tradition also gives to the land, people from Rome, and from Scandinavia. But in the time of Julius Cæsar, the land was occupied by Gallic tribes, chief of which was the Helvetian. These were made subject to the Romans, and the country received the name of Helvetia. Early in the fifth century north-eastern Helvetia became a part of Alamannia. Later in the century western Helvetia became a part of Burgundy.

The Alamannians were still heathen, and remained such for two hundred years after the conquest. In this respect there is a striking resemblance between the experiences of England and Switzerland. Both countries were made Christian under the Roman Empire. Both were in the fifth century made partially subject to Teutonic heathen tribes. In both, there were several generations of heathen rulers, and both received Christianity at the hand of missionaries sent to them for their conversion. In both England and Switzerland the language of the heathen conquerors was retained.

The German part of Switzerland has, therefore, in the circumstances of its origin, much to remind one of England. It is in these two countries, where Celts subject to Roman Christian rule were displaced by several generations of German heathenism, that there is a manifest connection between primitive German institutions, and the highest power in the state.

(2) In France the case is wholly different. Here, too, Germans conquered Celts subject to Roman rule. But in France the conquerors adopted at once the religion of their subjects. Not only so, but they adopted also the language of Rome. Nearly all that was distinctly German disappeared and the country remained dominantly Latin.

The Burgundians who conquered the western part of Switzerland were already Christian. The Alamannians who conquered eastern Switzerland, made slaves of the Helvetians, and as a recognizable part of the state, destroyed them root and branch. In Burgundy, on the other hand, the Helvetians were left in possession of a part of their lands and goods. They were made a tributary people, but were not enslaved.

By these conquests in the fifth century, all of what is now Switzerland, north of the Alps, became undistinguishable parts of the two large provinces of Alamannia and Burgundy; one of them Christian and the other heathen. It was many centuries before there was any vestige of a separate Swiss state. When the Frankish Empire was founded, these two provinces were

included in it. When the Empire was divided in 843 Alamannia went to Germany, and Burgundy went to France. When the conquest of Helvetia was made, in the fifth century, there was no feudal system in Europe. When the partition of the Empire occurred, in 843, the feudal system was in process of development.

(3) Many things combined to render the feudal system less perfect in Switzerland, than in France or Germany. This was especially true in the Forest Cantons. North of the Alps, Switzerland was on the borderland between those two warring states. The inhabitants of Switzerland were always noted for the vigor of their fighting qualities. Kings and Emperors found it more convenient to conciliate, than to conquer them. That portion of Switzerland lying south of the Alps was an undistinguishable part of Italy, until late in the middle ages. It is in large part the nature of the country and its geographical position, that have given to the land its peculiar history. The country was poor. At no time was there a large surplus to tempt the rapacity of robber armies. This, together with the fact that the Swiss knew how to protect the little they possessed, and the other fact, that they lived in a country easily defended, gave them peculiar exemption from heavy-handed tyranny.[3]

(4) Switzerland is abundantly supplied with natural boundaries. From the St. Gotthard, which is the apex of the land, the Alps fork to the east, and to the south-

west. Between the two eastern prongs of the fork, is included the large canton of the Grisons. Between the western prongs is the canton of Valais. The only canton to the south without natural boundary is Ticino, which is Italian in its essential characteristics. Three-fourths of the land and nearly all the characteristic history is connected with the cantons north of the Alps. Many of these cantons have for boundaries mountains, lakes or rivers.

SUPPLEMENTARY READING

CHAPTER I

The Beginning of Swiss History

[1] **Points of Resemblance.**—But what are the points of resemblance which can be traced between those Thirteen Swiss States, and the Thirteen American Colonies before their growth into an independent nation?

In both countries the states were practically self-governing, owing only nominal allegiance to a distant supreme ruler. In both countries there was the same absence of a central controlling organization, although the national spirit was vigorous and assertive. The American colonies, however, were fortunate in not possessing subject lands to debauch their governments.

It is true that the Western territory for a while proved a dangerous bone of contention amongst them, but the wisdom shown by Congress in carving new states out of that territory soon removed all causes for jealousy.

Indeed, the process of absorbing the Western lands into the Union has been admirable in its simplicity and success. Switzerland had no vast area of virgin soil to assimilate; its growth was strictly circumscribed to the few states it could attract within its orbit or to those it could conquer outright. The American colonies naturally expanded westward, away from the narrow strip of sea-coast, but the Swiss states had no such storehouse of well-nigh unlimited resources to draw upon.—"*Rise of the Swiss Republic,' by W. D. McCracken. p. 246.*

Self-Government in the Swiss States.—Year by year, on certain spots among the dales and mountain-sides of Switzerland, the traveler who is daring enough to wander out of beaten tracks and to make his journey at unusual seasons may look on a sight such as no other corner of the earth can any longer set before

him. He may there gaze and feel, what none can feel but those who have seen with their own eyes, what none can feel in its fulness more than once in a life-time, the thrill of looking for the first time face to face on freedom in its purest and most ancient form. He is there in a land where the oldest institutions of our race, institutions which may be traced to the earliest times of which history or legend gives us any glimmering, still live on in their primeval freshness. He is in a land where an immemorial freedom, a freedom only less eternal than the rocks that guard it, puts to shame the boasted antiquity of kingly dynasties, which, by its side, seem but as innovations of yesterday. There year by year, on some bright morning of the spring-tide, the Sovereign People, not entrusting its rights to a few of its own number, but discharging them itself in the majesty of its corporate person, meets in the open market-place or in the green meadow at the mountain's foot, to frame the laws to which it yields obedience as its own work, to choose the rulers whom it can afford to greet with reverence as drawing their commission from itself. Such a sight there are but few Englishmen who have seen; to be among those few I reckon among the highest privileges of my life. Let me ask you to follow me in spirit to the very home and birthplace of freedom, to the land where we need not myth and fable to add aught to the fresh and gladdening feeling with which we for the first time tread the soil and drink in the air of the immemorial democracy of Uri.

It is one of the opening days of May; it is the morning of Sunday; for men there deem that the better the day the better the deed; they deem that the Creator cannot be more truly honored than in using, in His fear and in His presence, the highest of the gifts which He has bestowed on man. But deem not that, because the day of Christian worship is chosen for the great yearly assembly of a Christian commonwealth, the more direct sacred duties of the day are forgotten. Before we, in our luxurious island, have lifted ourselves from our beds, the men of the mountains, Catholic and Protestant alike, have already paid the morning's worship in God's temple. They have heard the mass of the priest or they have listened to the sermon of the

pastor, before some of us have awakened to the fact that the morn of the holy day has come. And when I saw men thronging the crowded church, or kneeling, for want of space within, on the bare ground beside the open door, and when I saw them marching thence to do the highest duties of men and citizens, I could hardly forbear thinking of the saying of Holy Writ, that "where the Spirit of the Lord is, there is liberty." From the market-place of Altdorf, the little capital of the Canton, the procession makes its way to the place of meeting at Bözlingen. First marches the little army of the Canton, an army whose weapons never can be used save to drive back an invader from their land. Over their heads floats the banner, the bull's head of Uri, the ensign which led men to victory on the fields of Sempach and Morgarten. And before them all, on the shoulders of men clad in a garb of ages past, are borne the famous horns, the spoils of the wild bull of ancient days, the very horns whose blast struck such dread into the fearless heart of Charles of Burgundy. Then, with their lictors before them, come the magistrates of the commonwealth on horseback, the chief magistrate, the Landammann, with his sword by his side. The people follow the chiefs whom they have chosen to the place of meeting, a circle in a green meadow, with a pine forest rising above their heads and a mighty spur of the mountain range facing them on the other side of the valley.

The multitude of freemen take their seats around the chief ruler of the commonwealth, whose term of office comes that day to an end. The Assembly opens; a short space is first given to prayer, silent prayer offered up by each man in the temple of God's own rearing. Then comes the business of the day. If changes in the law are demanded, they are then laid before the vote of the Assembly, in which each citizen of full age has an equal vote and an equal right of speech.

The yearly magistrates have now discharged all their duties; their term of office is at an end, the trust which has been placed in their hands falls back into the hands of those by whom it was given, into the hands of the sovereign people. The chief of the commonwealth, now such no longer, leaves his seat of

office and takes his place as a simple citizen in the ranks of his fellows. It rests with the free will of the Assembly to call him back to his chair of office, or to set another there in his stead.

Men who have neither looked into the history of the past, nor yet troubled themselves to learn what happens year by year in their own age, are fond of declaiming against the caprice and ingratitude of the people, and of telling us that under a democratic government neither men nor measures can remain for an hour unchanged. The witness alike of the present and of the past is an answer to baseless theories like these. The spirit which made democratic Athens year by year bestow her highest offices on the patrician Periklês and the reactionary Phôkiôn still lives in the democracies of Switzerland, alike in the Landesgemeinde of Uri and in the Federal Assembly at Bern. The ministers of Kings, whether despotic or constitutional, may vainly envy the sure tenure of office which falls to the lot of those who are chosen to rule by the voice of the people. Alike in the whole Confederation and in the single Canton reëlection is the rule; the rejection of the outgoing magistrate is the rare exception. The Landammann of Uri, whom his countrymen have raised to the seat of honor, and who has done nothing to lose their confidence, need not fear that when he has gone to the place of meeting in the pomp of office, his place in the march homeward will be transferred to another against his will.—*"The Growth of the English Constitution," by Edward A. Freeman, Chap. I, p. 2.*

[2] **The Lake Dwellers.**—The discovery of these lake dwellings in Switzerland ranks amongst the most notable achievements of modern antiquarian science. From time to time during the first part of this century, and even earlier, ancient wooden stakes and stone implements of finished workmanship had been noticed along the shores of the lakes of Zurich and Constance. They were objects of wonder for a while, but were soon forgotten.

Finally, during the severe winter of 1853-54, a peculiar circumstance forced the whole subject upon public attention. In that year the lakes and rivers of Switzerland were unusually low,

and the receding waters left great stretches of bottom-land exposed to view.

The inhabitants of Obermeilen, a village on the lake of Zurich, profiting by this rare opportunity, set to work reclaiming as much as possible of the uncovered ground for gardens and quays. In the course of their labors they came upon piles driven deep into the soil, and presenting every appearance of great age, while scattered about in the immediate vicinity lay stags' horns and stone utensils.—*Ibid., p. 14.*

[2] **Primary Causes of Civilization.**—These considerations clearly prove that of the two primary causes of civilization, the fertility of the soil is the one which in the ancient world exercised most influence. But in European civilization, the other great cause, that is to say, climate, has been the most powerful; and this, as we have seen, produces an effect partly on the capacity of the laborer for work, partly on the regularity or irregularity of his habits. The difference in the result has curiously corresponded with the difference in the cause. For although all civilization must have for its antecedent the accumulation of wealth, still what subsequently occurs will be in no small degree determined by the conditions under which the accumulation took place. In Asia, and in Africa, the condition was a fertile soil, causing an abundant return; in Europe, it was a happier climate, causing more successful labor.—*"History of Civilization in England," by Henry Thomas Buckle, pp. 36, 37.*

CHAPTER II

THE BEGINNING OF THE CONFEDERACY

UNTIL late in the thirteenth century there was nothing that could be recognized as the beginning of the independent Swiss State. It should be borne in mind that what we know as Switzerland, was then simply parts of Austria, France, and Italy. The name comes from Schwyz or Schwytz, a Forest Canton between the Lake Zurich and Lake Lucerne. At the time of the conquest of the Helvetians by the Alamannians these forest regions were almost wholly unoccupied. In course of time German families made their way into the forests and established homes. At first they were probably unmolested, and there was a sort of reversion to the primitive family state. Later, the people of Schwyz were subject to German princes or to religious houses. But in this canton the feudal system gained but a feeble hold; the majority of the people remained free.[1] They paid tribute, but rendered no feudal service. Some of the lands, however, were attached *to* religious houses through the forms of feudal tenure. In the free communes, or villages, there were lands held in common, and between the freemen and the feudal claimants, there were long and bitter struggles as to the disposition of the common lands,[2] through

LAKE AND COUNCIL HOUSE, ZURICH, SWITZERLAND

In this neighborhood the Swiss Confederacy was formed

such strife the Swiss were trained to politics and taught to guard their rights.

(1) South of Schwyz and extending to the St. Gotthard, bounded by a triangle of mountain ranges, is the canton of Uri, while to the west of Uri, and also bounded by mountains and Lake Lucerne, is the canton of Unterwalden. These three cantons are known as the Forest Cantons, and by their union in 1291 we have the beginning of the Swiss Confederation. Each canton had a long and peculiar training for its mission. In Schwyz we have seen that freemen contended against feudal lords who would wrest from them their lands. In Uri, a majority of the people occupied feudal estates. Part of the time the chief feudal master was a religious house, and part of the time a prince. The feudal burdens of Uri were light. A large part of the canton being subject to one feudal lord, all the people, bond and free, were members of the ancient German assembly. Uri therefore furnishes the best illustration of the persistence of the primitive democratic assembly from the earliest times to the present day.[8] Through this assembly the rights of the citizens have been regained and preserved.

(2) In Unterwalden, as in Uri, a majority of the people were subject to feudal rules, but instead of one brief lord there were a number of local estates, and for each estate there was a separate assembly. Progress towards a union of cantons was consequently much retarded. The three cantons were alike, in that in each,

there were both freemen and serfs, and in each, both freemen and serfs contended for common rights and privileges.

(3) It is not known when the men of the Forest Cantons began to consult together for the common good, and to agree upon terms for mutual aid. Upon the death of Rudolf, Emperor of Austria, in 1291, a written compact was drawn up and signed by representatives of the three cantons. This famous document begins with the words *"In nomine Domini, Amen."* Our Pilgrim Fathers on board the Mayflower rendered these words: "In the name of God, Amen." This perpetual league did not create a Swiss state, any more than the Triple Alliance to-day between Germany, Austria, and Italy, creates one state. The cantons remained independent, but were bound to assist each other in their wars. The separate cantons were not independent states. They had always been, however, as nearly independent as was possible. They intended through coöperation to render themselves still more independent. It required many centuries after the formation of the alliance to unite the cantons into one state.

(4) The allied cantons through vigorous coöperation made themselves independent of Austrian rule. A decisive battle was fought at Morgarten 1315. It is in connection with this war of independence that the legend of William Tell appears.[4] This legend is a part of the folk-lore of the Teutonic race and it appears in

many places and in diverse forms. The story embodies the detestation of tyranny which is characteristic of the race. An important lesson may be gathered from the fact that only in the Forest Cantons of Switzerland, the place above all others where the particular form of tyranny which the story illustrates, was least of all experienced, is the story preserved and believed in, as true history. The people who most abhor tyranny are those into whose souls the iron of tyranny has least entered. The Swiss believe in William Tell, because they have never been compelled to submit to a tyrant who amused himself by requiring a fond father to shoot apples from the head of his son. Andros and Berkley were not great tyrants as tyrants go. But they had the misfortune to be placed over peoples who were unspoiled by oppression.

The Forest Cantons formed the nucleus for the Swiss state because by race and habit they were a liberty loving people; because of the poverty of their country where there was little to tempt the rapacity of a tyrant; because nature defended their boundaries; because they were on the outskirts of a great state whose rulers were interested in securing their good will.

SUPPLEMENTARY READING

CHAPTER II

The Beginning of the Confederacy

[1] **Schwyz.**—In the meantime Schwyz was pushing toward the same goal, but by a different road. Here it was the freemen who formed the majority of the inhabitants, and who took the lead in the work of emancipation.

The name of this district appears for the first time as *Suuntes*, in a document dated 970, which deals with an exchange of land between the monasteries of Pfäffers and Einsiedeln. *Suuit* is apparently the name of a person, and *es* the genitive ending, but nothing is known of the meaning of this name.—*McCrackan's "Rise of the Swiss Republic," p. 78.*

[2] **The Alamanni.**—The Alamanni undoubtedly also founded open villages and hamlets, surrounded by wide-reaching, unused land, but avoided until much later the ruined towns which they found studding the country. It is impossible to follow out in every detail the manner in which they parcelled out the land amongst themselves, but there can be no question that there grew up in their midst in very early times the peculiar system of the Almend, a system which it will be necessary to notice particularly on account of its transcending importance in the life of the Swiss people. Briefly stated, the Almend was the undivided land which surrounded a settlement. It consisted, according to the nature of the ground, of meadow, pasture, and forest, and also of swamp, lake, river, or mountain. As long as the country remained thinly populated, the supply of undivided land between the settlements remained practically unlimited, and there was of course no need of defining any one's rights to that land, but when in course of time the population increased and the settlements expanded, the want of more land naturally made itself felt, and regulations were

adopted for the management of this undivided land.—*Ibid., pp. 33, 34.*

[3] **Community of Uri.**—The inhabitants of the lower valley of the Reuss formed the "Community of the People of Uri," and regulated for themselves all matters pertaining to their common pastures and woodlands. In Schwyz also, along with some manorial subjects, there had been preserved from earlier times a *Markgenossenschaft,* owning its own land and making its own local laws. Their external political status, however, was not so desirable as that of Uri, since they were under the protection of neighboring magnates and only distantly attached to the empire. The same may be said of Unterwalden, except that ownership of land was more divided up among monasteries and nobles, and there were fewer free farmers than in Schwyz. In both the constant menace was that their overlords would assume not only the feudal protection of the districts, but the territorial ownership as well, and gradually deprive the small owners of their remaining rights.

We must not put too large an estimate upon the legislative powers of these communities at this time. The scope of law-making doubtless went little beyond the concerns of their common farming and pasturage. Popular rights found expression rather in the application of law, in attendance upon court and in sitting upon juries in local trials. Here they would jealously guard ancient usages and resent foreign interference and arbitrary interpretation. It is important to note, however, that their common interests and occasional assemblies kept alive the sense of mutual dependence, and when political matters were in the air, the *Markgenossenschaft* became the center of action. In this local agricultural freedom lay the germ of larger political liberty, and when the time came for action, the instinct and the instrumentalities were at hand.—*Vincent's "State and Federal Government in Switzerland," pp. 5, 6.*

[4] **The Legend of William Tell.**—Some years ago the announcement went abroad that the familiar story of William Tell was not historically true; that such a person never existed, or, if he did, could never have played the rôle ascribed to him as

founder of the Swiss Confederation. It was discovered that when the methods of research which Niebuhr had used with so much skill to elucidate the origin of Rome were applied also to the early days of the Confederation, the episode of William Tell became a fireside tale, a bit of folk-lore; valuable from a literary standpoint, but without historical significance.

Unfortunately, he had long been regarded as a universal household friend, a prime favorite with the children, and one who appealed also to their elders as a singularly picturesque representative of Liberty, striving successfully against Tyranny. He had, moreover, called forth the best powers of at least one great poet, Schiller, and one famous musician, Rossini, so that his claim seemed, to the world, established beyond question by the sanction of genius.

It was natural, therefore, that this adverse report should be received with incredulity and indignation. At first people preferred to cling to their belief in William Tell, rather than to sacrifice another illusion of their childhood to the all-devouring, investigating spirit of the age; the more so because they knew little or nothing about the history of Switzerland beyond this episode. But when the best authorities, one by one, declared themselves against the truth of the tradition, the conviction gradually gained ground that the old hero must be classified as a legendary personage.

The truth is, there have always been a certain number of objectors to the accuracy of the tradition which based Swiss liberty upon the shot of a skillful archer, but their words have made no lasting impression upon the public mind. As early as the beginning of the Sixteenth Century, Joachim von Watt, the reformer of St. Gallen, better known under his Latinized name of Vadianus, had spoken of the subject in his *Chronicles of the Abbots of the Monastery of St. Gallen:* "Of these three lands" [meaning the present Cantons of Uri, Schwyz, and Unterwalden] "they tell strange things in regard to their age and origin. . . . I suspect that much is fabled, and some again may not be likened to the truth."

In 1607, the writer, François Guilliman, of Fribourg, who

added some new details to the story of William Tell in his history *De Rebus Helvetiorum,* makes this surprising confession in a letter to a friend: "After having maturely pondered the matter, I consider the whole thing a mere fable, especially as I have not yet been able to discover a writer or chronicler, more than a century old, who mentions it. All this seems to have been invented to nourish hatred against Austria. The people of Uri are not agreed amongst themselves in regard to the place where William Tell lived; they can give no information in regard to his family or his descendants."

* * * * * *

To understand the commotion produced in Switzerland by Kopp's *exposé* we must try to imagine what would be the result in the United States if George Washington were suddenly declared to be a legendary character. Everyone sided for or against the truth of the tradition; no one could remain neutral; but from that day to this the impression has gradually forced itself upon the minds of all who have looked into the question that Kopp was in the main right, and that, whatever modifications new discoveries may make necessary, in the sweeping judgment which that historian pronounced, William Tell can never again be looked upon as the founder of the Swiss Confederation. * * *

The battle of Morgarten, in 1315, was the baptismal day of the young confederation, but none of the chroniclers who describe this event and the incidents attending it have a word to say of a William Tell, or of any one who could be mistaken for him. On the other hand, the whole tenor of these writings and of the documents of the period is opposed to the tradition.

The impression we derive from them is, that the Swiss gained their independence after a long-continued struggle, not by a sudden rising, and through the efforts of the whole people, not at the instigation of one man. In 1420, Konrad Justinger, of Bern, in writing the annals of his native city, touched upon the origin of the Confederation, but even he says nothing about William Tell, nor does Felix Hemmerlin, of Zurich, writing upon the same subject in 1450.—*"The Rise of the Swiss Republic," by W. D. McCrackan, pp. 92-95.*

CHAPTER III

THE SWISS CONFEDERACY

AT THE TIME when the Forest Cantons formed an alliance against the German Empire the feudal system was already giving way throughout Europe. In France the king was gaining the ascendancy over feudal lords, and a centralized state was being built out of the ruins of the feudal state. In Germany the central government was being weakened by the formation within its borders of free cities, and by encroachments of local princes upon the power of the king. The history of Switzerland follows closely the history of Germany. Before the league of the cantons there had been formed a confederation of cities in Northern Germany known as the Hanseatic League.[1] The weakness of the central government favored the success of the league. For centuries the Swiss Confederation maintained a nominal connection with the German Empire, yet this did not prevent the cantons from being virtually independent.

(1) The success of the three Forest Cantons in maintaining their liberties caused neighboring cantons to seek admission to the league. During the sixty-two years following the alliance of 1291, five cantons joined the confederacy. The last of these was the large can-

ton of Bern, or Berne, admitted in 1353. These are known as "the eight old cantons," and they remained without numerical change for more than a hundred years. Each canton was an independent state. The league was for war and not for government. In 1431 two cantons were admitted to the league, and they all bound themselves by treaty not only to assist each other in foreign wars, but to render aid in case of threatened revolution. That is, the confederates agreed to assist the government in each state to maintain its existence against its own citizens.

Early in the sixteenth century the league was increased to include twelve cantons, and in 1573 Appenzell was added, making thirteen. There were no additions to this number for two hundred and thirty years. While the number of cantons did not increase the territory increased. The confederates, always successful in defending their own liberties, were led to make conquest of adjacent territory. In this way the country, now composing the nine additional cantons of modern Switzerland, was made subject to the confederated cantons. It was by the process of conquering and governing adjacent territory, that the league learned its first important lessons in the formation of a united state. To rule the subject cantons, and to collect and disburse tribute, an official class representing the united cantons came into existence.

Yet, notwithstanding the common interests, the growth of the union was slow and irregular. Many

times the confederacy was brought to the verge of ruin. There was from the beginning, a feud between the Forest Cantons, in which agriculture was almost the sole industry, and the commercial, or city cantons. It was seldom true that the confederacy was composed of members united under the same conditions. Special cantons enjoyed special privileges, and individual members of the league made separate treaties and alliances.

(2) Switzerland, as we have seen, was formed out of territory belonging to Germany. As an incident to the rivalry between France and Germany an alliance sprang up between the allied cantons and France. This alliance began early in the sixteenth century. It was greatly to the advantage of the federated cantons to have so powerful a friend. At the end of the Thirty Years' War, in 1643, through the influence of France, Switzerland was recognized as entirely independent of the German Empire.

The Swiss acted as a sort of balance of power between the rival nations of Europe. As it became evident that they could not be conquered it was clearly to the interest of neighboring nations to conciliate them. Swiss soldiers were much in demand by rival princes and kings. Not having battles of their own to fight they were hired to fight the battles of others. This mercenary warfare tended to corrupt the Swiss states.

(3) The French Revolution found Switzerland still a loose confederation of thirteen states ruling over nine other adjacent states, or provinces. France, in

spite of having for centuries befriended Switzerland, conquered the country in 1798, and set up over the whole land, a foreign rule under the historic name of the Helvetic Republic. No distinction was made between the subject and the ruling cantons. All were ruled by a government from France. This gave to the Swiss a fresh realization of the value of liberty. The people were treated with great brutality. At the earliest opportunity, in 1802, the cantons rose in rebellion; but again they were overrun by a French army. Napoleon was, however, convinced that it was more advantageous to conciliate them than to rule the Swiss. So he appeared as the mediator and protector.

It is at the close of the Napoleonic wars that the history of modern Switzerland begins. Waterloo delivered Switzerland, as it delivered Europe, from the dread of the despot. The Swiss proposed to revert to their former Confederation. The thirteen cantons intended still to rule over the subject provinces. But to the honor of the eight European Powers represented in the Congress of Vienna, the Confederacy was compelled, or induced, to admit the whole of the twenty-two cantons on equal terms. At the same Congress provision was also made for the peace of Switzerland, as well as for the peace of Europe, by making the soil of Switzerland neutral territory. By this compact a country which had been for centuries a natural battle-ground between Germany, France, and Italy was set apart for the ministry of peace.

Throughout all these centuries the Swiss had, in their own cantons and communes, had a large share in the management of their own affairs. They had had a taste of tyranny but they never got used to it. The officers of Napoleon testified that each man fought like a Cæsar. These little cantons were no larger than a county, yet they made treaties on equal terms with great states and empires. Their importance is not measured by their size or by their wealth, but by the desperation with which the people clung to their liberties.

SUPPLEMENTARY READING

CHAPTER III

The Swiss Confederacy

[1] **The Hanseatic League.**—A medieval confederation of cities of northern Germany and adjacent countries, called the Hanse towns, at one time numbering about ninety, with affiliated cities in nearly all parts of Europe, for the promotion of commerce by sea and land, and for its protection against pirates, robbers, and hostile governments.

At the height of its prosperity it exercised sovereign power, made treaties and often enforced its claims by arms in Scandinavia, England, Portugal, and elsewhere. Its origin is commonly dated from a compact between Hamburg and Lübeck in 1241, although commercial unions of German towns had existed previously.

The league held triennial general assemblies, and after a long period of decline, and attempts at resuscitation, the last general assembly, representing six cities, was held in 1699. The name was retained, however, by the union of the free cities of Lübeck, Hamburg, and Bremen, which are now members of the German Empire.—"*Century Dictionary.*"

The First Perpetual League.—Rudolf of Habsburg died on the 15th of July, 1291, and seventeen days after, on the 1st of August, the three Forest States concluded a perpetual league and signed what may be styled the first federal constitution of the Swiss Confederation.

The promptness with which this great act was consummated, seems to suggest that the text of the perpetual pact had been drawn up previously and held in abeyance to be ratified after the King's death.

* * * * * *

On the whole the agreement is just what would be suggested to men working entirely by experience and not upon any definite theory. It is neither complete nor altogether satisfactory, when viewed in the light of modern statecraft; but it served its purpose admirably, and showed the touch of what we call practical men.

Indeed, this first perpetual pact of the Forest States is distinctly a conservative utterance — a sort of compromise beween a declaration of independence from the nobles, and an oath of allegiance to the feudal system itself, as befitting a people conscious of a grievance and yet unwilling to break with the past. The pact was enacted "for the proper establishment of quiet and peace."

Moreover, the third provision expressly states that "every man, according to his rank, shall obey and serve his overlord, as it behooves him." Here is direct evidence from the people of the Forest States themselves that they did not aspire as yet to be free, in the sense in which the nineteenth century understands that term.

As far as can be judged from the document itself, there was no intention of cutting adrift from all previous enactments to found a new state, although this was the actual result of the league. The struggle seems to have been directed more particularly against corrupt judges, as is shown by the emphatic declaration in regard to them. Especially noteworthy is the provision made for settling quarrels between the States by arbitration, a method which thereafter received wide application in the public affairs of the young Confederation.

History has recorded no words in which childlike faith in the justice of a cause, and prophetic insight into its inevitable triumph have been better expressed than in the closing lines: "The above written statutes, decreed for the common weal and health, shall endure forever, God willing."

Succeeding centuries have practically verified the naïve declaration of this group of unpretentious patriots, for the perpetual pact remained the fundamental statute-law of the growing Confederation for centuries, and was only superseded by enactments

of a more modern date, when it had, as a matter of fact, died of old age.

The name of the place where this historic document was signed is not revealed in the text, but in any case it must have been somewhere in the incomparable environment of the Lake of Lucerne. It is also to be regretted that the names of the signers have not been handed down to us. We can only speculate as to who those patriots were, but a fortunate circumstance has put us in possession of a list of men who, if they were not the actual signers of the first league, were at all events leading personages in two of the Forest States at the time under consideration.

A little more than two months after the conclusion of this league, Uri and Schwyz entered into a separate alliance for three years with Zurich, and the names of their representatives are mentioned in the document then drawn up. For Uri there was the Landammann Arnold, Mayor of Silenen, besides Knight Werner von Attinghausen, Burkart, the late Landammann and Conrad, Mayor of Erstfeld; and for Schwyz there was the Landammann Conrad Ab Iberg, Rudolf Stauffacher and Conrad Hunn — representatives of all the classes in the community, from noblemen to the descendants of serfs.

The conclusion is legitimate that the above-mentioned men were typical leaders, and it is quite probable that they, or at least some of their number, were also the signers of the first perpetual league. If this be the case, we may infer that these early leagues were in reality the combined work of the common people and of the native aristocracy, coöperating in the great cause which lay so near their hearts.

Moreover, it is not too much to say that the patriots whose names appear in the alliance with Zurich, with perhaps the addition of the unknown Landammann of Unterwalden, may be proclaimed the real founders of the Swiss Confederation.—*"The Rise of the Swiss Republic," by W. D. McCrackan, pp. 87, 89-91.*

Other Swiss Leagues.—At the end of the fourteenth and beginning of the fifteenth centuries, three well-defined centers of government made their appearance; three separate leagues, which were known by the somewhat extraordinary titles of "The League

of the House of God," "The Upper" or "Grey League," and "The League of the Ten Jurisdictions."

In 1367 the chapter of the cathedral at Chur, with the subjects of the Bishop in the Valleys of Bergell, Oberhalbstein, the Engadin and Domleschg, and the burghers of Chur itself, concluded an alliance against the Bishop of Chur, the most powerful ruler of the whole country, because he threatened to compromise their interest, in an alliance which he had made with the Duke of Austria.

This is the foundation of the so-called "League of the House of God," and here, also, as elsewhere in Switzerland, Austria was instrumental in forcing the people to build up free states. While this league was formed almost entirely by subjects, *i. e.*, by ecclesiastical serfs, the Upper, or Grey League, was the result of the combined action of serfs, freemen, and nobles.

In 1395 the Abbot of Dissentis, the Lords of Räzüns and of Sax, with their subjects, and the communities between the source of the Rhine and the forest of Flims, solemnly agreed to protect one another, and to settle all disputes by means of a board of arbitration of three men. It was a union of elements which elsewhere could not live at peace with each other, and was evidently the result of a mutual agreement to put a stop to the endless and useless quarrels which had devastated the upper Rhine Valley. The League of the Ten Jurisdictions arose from the fact that certain communities, at the extinction of the house of Toggenburg, of which they formed a feudal dependence, suddenly found themselves without an overlord, and consequently determined to govern themselves. In 1436, their representatives united in a league which was purely democratic, inasmuch as no ecclesiastical or secular nobles at all were to be found amongst the contracting parties — a league, therefore, which more nearly resembled that of the Forest States than the others in Rætia. The real connection with any member of the Swiss Confederation occurred in 1400, when the Grey League entered into a perpetual pact with the community of Glarus.—*Ibid., pp. 206, 207.*

CHAPTER IV

PREPARATION FOR THE DEMOCRATIC STATE

FROM the formation of the leagues of the three Forest Cantons, in 1291, to the French Revolution is a period of five hundred years. Yet in those five centuries, no united Swiss state had been formed. Instead, there was a loose confederation of independent cantons or states. The formation of the Swiss state could not take place until after the French Revolution, and the coming in of modern democracy.

(1) A government which is not Democratic in its spirit and practice, that is, a government which does not concern itself chiefly with the business of educating and training all the people to habits of virtue and self-control is, in the very nature of the case, a conspiracy against the people. Between a repressive government and the individual subject there is an irrepressible conflict. Between a perfect democratic state and the citizen there can be no conflict. A perfect state assumes that the people are already trained to habits of righteous public conduct, through agents of their own choice and approval.

(2) Democracy does not mean a form of government merely; it means a principle which may find expression in any or all forms of government. The dem-

ocratic principle requires that at all times and places, the form of government which will most rapidly and effectively educate and train the people to habits of self-government, both in their individual and in their public concerns, shall be adopted. A mere union of the people on terms of equality does not create a democracy. The most hopeless and enduring slavery may be the result of tying people together on terms of perfect equality. Under the caste system of India the people are thus enslaved. The members of the caste are slaves of themselves. We apply the term democracy to the primitive Teutonic state, where the families were united on terms of equality, but as we learn more about them, we are led to believe that they were not at all democratic in the modern sense. They were held together by instinct, by ignorance, by superstition: they were victims of conditions which they could not control. Left to themselves they might have drifted into the slavery of caste.

(3) There can be no doubt, however, that both in Switzerland and in England, the primitive democracy of the German village was of immense importance in the evolution of the modern democratic principle. The American, from his youth up, breathes the spirit of the Declaration of Independence. The American, therefore, experiences peculiar difficulty in reading primitive political institutions. To the record that the families owned land in common, and composed their difficulties in town meeting, the American adds the

A TYPICAL GROUP OF SWISS WOMEN PEASANTS

erroneous view that these people were believers in equality. The people of the Canton of Uri had no clearly defined conviction of the rights of man. They believed in the fact that they had certain clearly defined rights in their land. Their ancestors had long been accustomed to the management of land by means of an assembly. The people of Uri contended successfully for their rights against foreign intruders, and the assembled inhabitants of the canton formed the only agency for effective resistance. When the warriors of Uri conquered the province of Ticino, south of the Alps, they governed it as would any other conqueror. As did Uri, so did other conquering cantons; so did the Confederacy. We do the Swiss injustice when we accuse them of inconsistency, in that they availed themselves of the advantages of democracy and denied these advantages to their conquered provinces. They had not learned to think the thoughts, or to speak the language of democracy. There is a long road from the doing of a thing to the forming and holding of a consistent theory as to the doing. The cantons played the tyrant over conquered territory, because that was a leading motive in the conquest. The age furnished no other customary motive. They themselves resisted conquest because they could. They made conquests because they could, and they ruled in accord with the spirit of the age.

In the cantons themselves there grew up an official class. Power was more and more assumed by the mag-

istrates. The divine right of the magistrates to rule was taught and practiced with as much sincerity, and consistency, as was the divine right of Stuart kings in England. The people of the cantons were stripped of power in their assemblies, and were oppressed by local tyrants. The magistrates were in conscious conspiracy against the peasants. The government in each canton was bound by treaty, to assist neighboring cantons to put down rebellion. In 1653 a peasants' war arose, and spread throughout the land. It was effectively crushed out, and the leaders were punished with the usual barbarities of the age. The sense of a common oppression and a common helplessness under their own rulers is a fact of immense consequence in accounting for the modern Swiss state.

(4) Switzerland was over-sensitive to the leading movements of Europe. Refugees from neighboring nations were always present. Huguenots, driven from France, found homes in Switzerland, as they did in England and America. A large proportion of the leaders of thought lived in the little republic. Germany produced a Luther, but Switzerland produced both a Calvin and a Zwingli. Especially during the latter part of the eighteenth century was Switzerland the home of the great and the influential. Here lived and wrote Gibbon, and Rousseau. Pestalozzi and Froebel were first teachers of the Swiss.

Switzerland was peculiarly fitted to drink in all the lessons of the French Revolution. The teaching which

led to the Revolution first appeared in Switzerland. The peasants were restive under their rulers. When the French army entered the land in 1798 it was greatly assisted by a rising of the Swiss people. The brutal treatment at the hands of French soldiers, caused both rulers and people in Switzerland to compose their difficulties and unite against a common enemy.[1] In many ways the long subjection to the French rule was favorable to the closer union which was to follow.[2] Napoleon adopted the policy of conciliation toward the Swiss.[3]

SUPPLEMENTARY READING

CHAPTER IV

Preparation for the Democratic State

[1] **Napoleon's Act of Mediation.**—The conviction had now forced itself upon the nation that the Helvetic constitution was not suited to the requirements of Switzerland. It did not take into consideration the ingrained genius of the people for local self-government; it made no allowance for that principle of federalism upon which the country had been organized for more than five centuries, and, as a superimposed foreign product, it was doomed to prove a failure.

The people had submitted to its disturbing provisions, because they were powerless to resist the French bayonets, but they were ready to overthrow the odious Helvetic government, as soon as the soldiers, upon whom it relied for support, were withdrawn.

In fact, so sure were the Swiss people that a change was bound to come, that they already fell to quarreling over the form which the next constitution was to assume. Two great parties arose, the Federalists and the Centralists, representing respectively the principles of States rights, and of centralization.

In point of fact, every federated state, from its very nature, must at all times contain parties advocating these opposite tendencies. It is only in moments of great national excitement, however, that they take up bitterly antagonistic positions. A great political crisis was at hand in Switzerland. The general dissatisfaction with the Helvetic constitution may be inferred from the fact that between the 30th of April, 1801, and the 28th of April, 1802, *e. g.*, in one year only, no less than four drafts of constitutions were proposed or promulgated.

When finally the French troops left Swiss soil, in July and August of 1802, the people everywhere arose to restore the old

order of things. There were armed conflicts in Unterwalden, in Zurich, and in Aargau, between the insurgents and the Helvetic forces, in which the former were uniformly successful. Bern itself surrendered to a poorly equipped and disorganized mob of peasants. The members of the Helvetic government fled to Lausanne, while an old-time Diet of the Confederated States was held in Schwyz, under the direction of Alois Reding. A victorious army of the Confederates then marched upon Lausanne. The cause of the Helvetic Republic seemed indeed lost, and the restoration of the ancient Confederation assured, when suddenly both sides laid down their arms and disbanded as though struck by a magic wand.

It appears that a plenipotentiary had unexpectedly arrived in Lausanne, from Paris, bearing an offer of mediation from Napoleon himself, now enjoying the title of First Consul. The Swiss people were invited to send delegates to consult with him regarding a new constitution, which should establish the political status of the country upon a sure basis.

In his proclamation Napoleon expressed himself with brutal and characteristic frankness concerning Switzerland's helpless condition:

"You have been presenting a sad spectacle for the last two years; opposing factions have one after the other seized the supreme power, they have marked their temporary rule with partisan systems which afforded proof of their unfitness.

"In the course of the tenth year (1709) your government desired to have withdrawn the small number of French troops which were in Helvetia. The French government willingly took this occasion to honor your independence; but soon after your parties set themselves in motion with renewed fury; Swiss blood has been shed by Swiss hands.

"You have quarreled amongst yourselves for three years without arriving at an understanding. If you are left any longer to your own devices, you will slay yourselves for another three years, and then be no better off. Your history also proves that your internal wars cannot be ended except through the efficacious intervention of France.

"It is true, I had resolved not to interfere again in your affairs. I saw your government constantly asking my advice and then not following it, and several times misusing my name, according to their interests and passions.

"But I cannot, I must not, remain impassive under the misfortune to which you are prey. I withdraw my resolution; I will be the mediator in your quarrel, and my mediation shall be efficacious, as is worthy of the great nation in whose name I speak."—*"The Rise of the Swiss Republic," by W. D. McCrackan, pp. 313-315.*

[2] **Napoleon's Policy.**—September, 1802, he addressed to the Swiss people themselves a proclamation, in which he expressed his willingness to save them by means of mediation. He then ordered a general dispersion of all armed assemblages, a convocation of the Senate at Berne, a meeting at Paris under the title of consultative assembly of the deputies of the Senate and all the citizens who had held public offices under the central government during the last three years; then he added—"Inhabitants of Helvetia, let your hopes revive! Your country is on the brink of a precipice; it will now be saved. . . . There is not a single man of sense who does not perceive that the mediation I undertake is a blessing of Providence . . . ; it is time that you recognize, in short, that if the patriotism and union of your ancestors founded your republic, the bad spirit of your factions will infallibly cause its ruin." This is almost word for word the same speech that he made to the Spanish in 1808, when, after still more odious machinations, he invaded their territory: "Spaniards, your nation was expiring; I saw your calamities, I am going to heal them . . . I wish to earn an eternal title to your love and gratitude. . . . Spaniards, be full of hope and confidence; remember what your fathers were." We see that the policy varied little; in both cases it was the same violence and the same hypocrisy; but the Swiss in 1802 had not unfortunately the same means of resistance as the Spanish in 1808.—*"History of Napoleon," by P. Lanfrey, Vol. II., pp. 255, 256.*

[3] **Results of Napoleon's Proclamation.**—In obedience to this proclamation, some sixty Swiss emissaries arrived in Paris,

THRONE ROOM OF NAPOLEON I. AT FONTAINEBLEAU

in the month of December, forming a *Consulta,* to draw up a new constitution. On the 10th of that month, Napoleon sent them a writing, setting forth the points to be deliberated upon, and indicating clearly what he insisted upon their fulfilling. On the 12th, he addressed a committee from their midst, in the castle of St. Cloud.

On this occasion, the First Consul displayed so accurate a knowledge of the internal affairs of Switzerland, and showed so marvelous an appreciation of its needs, that his hearers were dumbfounded. In fact, never have the peculiar problems of that country been explained with more unfailing penetration. If the manner of the address was calculated to wound the pride of the Swiss emissaries, the advice which was given was sound and to the point.

"The more I thought over the nature of your country," said Napoleon, "the stronger became my convictions that it was impossible to subject it to any uniform system on account of the diversity of its component parts; everything drives you to federalism.

"Switzerland can no longer play an important part amongst the States of Europe, as in the days when no great neighbors stood beside her, when France was divided into sixty principalities, Italy into forty."—*"The Rise of the Swiss Republic," by W. D. McCrackan, pp. 315, 316.*

CHAPTER V

UNITED SWITZERLAND UNDER THE DEMOCRATIC CONSTITUTION

NAPOLEON is said to have prophesied that in fifty years Europe would be Cossack or Democrat. This is supposed to mean that Europe would become despotic or democratic. Chronology is a weak point with all prophets. Switzerland, however, is Europe in miniature, and within fifty years of the triumph of Napoleon, Switzerland did become a democratic state.

(1) We have seen that Switzerland shares the fate and reflects the life of Europe. It incurred the barbarian invasion. When feudalism dominated Europe it tended also to dominate Switzerland. The Swiss furnished a splendid illustration of popular resistance to feudalism. The Reformation came to the Swiss, as it came to western Europe. While Europe was engaged in religious wars on a grand scale, the cantons of Switzerland were waging religious wars on a small scale. The feelings and sentiments which created the French Revolution were experienced by the Swiss in an intensified form. To fully appreciate the analogy between the politics of Switzerland and the politics of Europe, it must be borne in mind that each little canton was a separate, independent state, making

treaties and, some of them, conquering and ruling provinces on their own account. Many of them were in perpetual alliance with each other as have often been the great states of Europe. There was no united state of Switzerland until there was a united democracy. When there is a united democracy of Europe, there may be a united state of Europe.

The Swiss came out of the French Revolution, and out of their subjection to French rule with the masses of the people, believers in democracy. Yet these same people were still subject to the rule of old aristocratic families. In many of the cantons the few ruled the many. For centuries these people had been trained to a sense of injustice on the part of their rulers. In 1653 the whole peasantry had united in a formidable rebellion. The sense of injustice had been a growing factor. And now that the people had become convinced democrats, an effective method of escape became more and more clearly defined. The Swiss, ever sensitive to the pulse of Europe, made decided gains in the direction of democracy during the revolutionary era of 1830.[1] The sentiments which expressed themselves in Europe by the Revolutions of 1848 found expression in Switzerland through a civil war, a few months earlier. And upon the full tide of the fateful revolutions, the Swiss were prepared to sit down in deliberative council and frame their Constitution of 1848.

(2) In the making of their Constitution, the Swiss drew upon the experience of the United States; yet

they were careful not to break with their own experience. By the adoption of this Constitution, the nation was enfranchised. Power passed suddenly from the privileged few to the inexperienced many. In many cantons it was a long time before members of the old ruling families could be chosen to office. For centuries the peasant had studied politics from the standpoint of a subject and an outside observer. The ancient ruling class now became students of politics from the same vantage ground. In course of time the brighter intellects frankly accepted the democracy and began to devise ways and means for winning the confidence of the people. These old families had in the past, lorded it over their fellowmen through the coincidence of wealth and political power. Under the democracy, they still found themselves in possession of superior industrial power over their poorer neighbors, though they were stripped of political power. They proposed to regain political influence by genuine reforms in taxation. Since superior wealth gives superior industrial power, they held that it was but simple justice that the wealthy should pay a higher rate of taxation.

I have found difficulty in getting Americans to believe that the progressive income taxes, in the Swiss cantons, and the progressive property taxes, whereby the rate of taxation rapidly increases, as the value of estates increases, were actually introduced into Switzerland through the leadership of bankers and manufacturers who are themselves the payers of the high rates.

In 1895 I was introduced to a Genevese banker, an Ex-President of the Confederacy, whose friends claim for him the honor of initiating these reforms. These laws have not been introduced as a mere political device to gain votes. They have been enacted under a conviction that they are just, with the full intention that the property will be assessed and the taxes collected as the law directs. Our Consul at Zurich expressed to me his surprise at the spirit and manner of the execution of these laws. He gave an incident which had just occurred. In the settlement of an estate it transpired that the decedent had, for many years, eluded a part of the taxes due the state. In such a case the law exacts double tax. The full amount for all the years of the delinquency was taken with no breath of dissent.

(3) From the adoption of the Constitution of 1848, democracy has become more triumphant and efficient. A more liberal Constitution was issued in 1874. The Referendum,[2] practiced in some of the cantons before the Constitution of 1848, has been extended to nearly all the cantons, and is embodied in the Constitution of 1874 for the Confederacy. Some sort of popular initiative[3] in law-making has from the beginning existed in some of the cantons. By recent amendment of the Constitution, fifty thousand petitioners may propose changes in Confederate laws. More recently still, Proportional Representation has been adopted in a few of the cantons. All these and many other measures have, as their object and effect, the placing of the

people in more complete control of all the affairs of state.

Important among causes contributing to the success of the democracy, have been the public works undertaken by cantons and by the Confederate government. With the subjection to France, trade restrictions between the cantons ceased. A period of road-building by the joint action of cantons and Confederacy ensued. These highways are the pride of the land, and the admiration of the world. The State has been actively identified with railway enterprises until finally measures are taken to make the entire business a state function. There has grown up an efficient postal system, including express business and postal telegraphy. Upon the advent of the telephone it was, as a matter of course, made a part of the postal system. For nine dollars a year the citizen is supplied with the use of a phone with connections in city and country. Without these and many other public enterprises undertaken by cities, cantons, and Confederacy, the democracy would have been foredoomed to failure. Perhaps, however, most important of all, is a system of state schools for the education of all the people.[4]

PLACE DE LA CONCORDE, PARIS, FRANCE

The most magnificent square in the world. The favorite place of execution during the Reign of Terror

SUPPLEMENTARY READING

CHAPTER V

United Switzerland Under the Democratic Constitution

[1] **Democratic Reforms in the Cantons.**—It was a French revolution which, in 1798, caused the old Swiss Confederation to collapse, and it was another French Revolution which, in 1830, gave the signal for political regeneration in Switzerland on democratic lines. From her very position, Switzerland has always been particularly sensitive to the tendencies manifesting themselves about her, reflecting in her long career every phase of European history. It was only natural, therefore, that she should feel the exhilaration of new aspirations, when the reactionary cloud, which had brooded over Europe, began to lift, as the breeze of liberty flew fresh from the streets of Paris.

In true Teutonic fashion the people came together in open-air assemblies, to formulate their demands for further rights, and, when necessary, to make arrangements for enforcing them. It was a magnificent movement, bearing a striking likeness to the revival of political thought amongst the farmers of the United States in the Grange and the Alliance. There were the same wrongs of special privilege to redress, the same organized oppression from the middle class, living as non-producers on their interest, and the same political tyranny of the politicians to break. In Switzerland, however, the struggle had first to be directed against the reactionary, almost feudal administrations in the various cantons, and was not carried on so much against plutocracy, as the industrial uprising of recent years in the United States has been conducted.

The first of these patriotic meetings of protest against the aristocratic governments was held in the canton of Thurgau on the 22d of October, 1830. A petition for the revision of the con-

stitution was drawn up, and pressed upon the authorities with so much vigor that the desired changes were soon after carried into effect.

An assembly, held at Uster, in the canton of Zurich, likewise sent a memorial to the government with clearly expressed demands. The form of address to the authorities which had become compulsory during the period of reaction shows in what abject submission the people were held.

"Right Honorable, Highly esteemed, Squire Bürgermeister! Highly esteemed, Highly honored Sirs and Masters!" Then followed a list of desired reforms. Amongst them was a new electoral system with fair representation; the constitution was to be declared valid only after it had been sanctioned by the people voting in popular assemblies; a demand was made for freedom of the press; for publicity of the sessions and minutes of the Cantonal Council; the right of petition; also a reduction of specified taxes; the introduction of a general income tax, and the improvement of the schools.

It will be seen that the patriots clamored for some of the most elementary rights of freemen, as well as for other reforms of more modern aspect. The people in other cantons, encouraged by this example, met to bring pressure upon their governments, and, by the middle of December, nine cantons had revised their constitutions in a liberal sense. In general, these popular feelings were dignified and peaceful, such disturbances as did occur being due to an insane attempt of the authorities to resist the express will of the people.—*"The Rise of the Swiss Republic," by W. D. McCrackan, pp. 325, 326.*

[2] **The Referendum.**—Bills which have been passed by both houses are promulgated by the Federal Council. In most other countries such acts become laws at once on the date appointed in the publication, but in Switzerland there is another power to be heard from before a measure can be truly said to have been enacted. For ninety days the law may be said to be on probation, for if within that time a sufficiently representative body of citizens so demand, a popular vote must be ordered and acceptance or rejection decided by that.

This procedure, known as the *referendum,* is peculiar to Switzerland.

All laws, "not of an urgent nature," are published immediately after passage, a sufficient number of copies sent to the government of each canton, and for ninety days submitted to inspection. The question as to whether a bill is urgent or not is decided by the Federal Legislature itself, and if it is, the Federal Council is ordered to put the same in force at once. But if it is an ordinary law, and during this period of probation 30,000 citizens petition for a popular vote, the bill must be submitted to that ordeal. It will be observed that again both the democratic and the federal idea may be represented in this expression of opinion. The thirty thousand citizens, being about one-hundredth part of the whole population, or about one-twentieth of the voters, stand for the democratic principle; but if the request come from the legislatures of eight cantons, the effect is the same. No canton, however, has as yet used this privilege, the demand always arising from popular agitation.—*"State and Federal Government in Switzerland," by John Martin Vincent, pp. 46, 47.*

[8] **Imperative Petition.**—By means of the initiative or Imperative Petition, the order of legislation just described is reversed, since the impulse to make law is received from below instead of above. The method of procedure is about as follows: Those who are interested in the passage of a new law prepare either a full draft of such a bill or a petition containing the points desired to be covered, with the reasons for its enactment, and then bring the matter before the public for the purpose of obtaining signatures. Endorsement may be given either by actually signing the petition or by verbal assent to it. The latter form of consent is indicated either in the town meetings of the communes, or by appearing before the official in charge of the petition, and openly asking that his vote be given for it. If in the various town meetings of the canton taken together a stated number of affirmative votes are given for the petition, the effect is the same as if the names of voters had been signed. When the signature method is adopted, all those who desire to endorse the petition are required to go to the office of the person

in charge of the bill. This is always a public officer, either the head man of the town or some precinct official specially designated. Here signers must prove their right to vote as in any other election. No fees are to be drawn from voters for witnessing their signatures. The number of names required is about the same in proportion to the whole body of voters as for the Optional Referendum.—*Ibid., pp. 123, 124.*

[4] **Education.**—In the matter of education, the part played by the central government does not exhibit to advantage what is done by the Swiss people as a whole. Schools and universities are nearly all maintained by the cantons, and the work done by them is treated more fully under the head of State Government, yet the confederation contributes a respectable amount to the advancement of learning and supplements in many ways the efforts of the states.

The constitution of 1848 authorized the federal government to erect and maintain a polytechnic school and a university. The first was founded in 1855, but the university has never been realized. The revision of 1874 went further in its provisions for education by declaring that in addition to the existing *Polytechnicum* the confederation was authorized to establish a university and other institutions of higher education or to aid such institutions. Furthermore, the obligation was laid upon the cantons to maintain primary education, which throughout the whole country must be compulsory, free of cost, open to children of all religious beliefs, and under the supervision of the state. If any canton does not fulfill these obligations, the federal government may take the necessary steps to compel it.—*Ibid., pp. 90, 91.*

CHAPTER VI

SPECIAL LESSONS FROM SWISS EXPERIENCE

MANY important lessons may be drawn from the Swiss experience. In Italy one sees a rich country and a starving people. In Switzerland the country is poor and the people comparatively rich. These are not isolated facts. It is a common observation that it is in a rich country that the people starve. There is also a relation of cause and effect. The Swiss are rich partly because their country is poor. The Italians are poor partly because their country is rich. In our account of the feudal system, the statement was made, that often a hierarchy of five or six grades of warriors and clergymen were supported from the same estate. This could only be true of the richer soils. In Switzerland the land was so poor that it could be made to support only one lord at a time. If a religious house had the feudal rights there was usually no competitor. In any event there was no complicated hierarchy of lay and clerical rulers in conspiracy to take from the people their living. The poverty of the land kept the people next to nature; kept them in the constant practice of coöperative support for the common weal. On the other hand, in the rich countries of France and Italy the surplus products have been built into complicated

institutions capable of holding together in the face of the actual starvation of the masses of the people. Louis XIV. could starve his subjects[1] while he was bribing the King of England, and was hiring Swiss soldiers to fight his battles.

(1) Swiss experience illustrates the importance of local government in the formation and maintenance of a democracy. In many parts of the land, the people have never departed far from the primitive village state, in which families and kinsfolk owned their lands in common and composed their difficulties in a common assembly. As stated above, this did not of itself create a democracy, but it gave to the great body of the people that training in the management of affairs in common, without which democracy is impossible. The common ownership of land is the key to the early political training of the Swiss. This fact, more than all others, accounts for the perpetuation of those popular assemblies so essential to the training of the people. Not all the lands were held in common; only a part were thus held. Hence, at the same time the people enjoyed the advantages and experiences derived from a private ownership of homes.

Small as the cantons were, they were not so small as not to contain important local governments. In many of them the communes or townships into which they are divided, have always been important local governments. In fact the care of common lands has been in the communes, rather than in the larger area of the

canton. The people of the cantons, therefore, during the long period in which these were virtually independent states, lived in a state which was so small that all could understand it, while at the same time they had control of local matters in still smaller communities. This intense devotion to the little state made a united Switzerland impossible, yet it saved Switzerland to democracy.[2] Had there been a united State much earlier it would probably not have been democratic. The Holy Alliance was intensely monarchical in its preferences. Yet the members were forced to concede that monarchy in the Alps was impossible. All the training in local government made for ultimate democracy. In France there is seen to-day, an example of an attempt to establish a democracy in a state, with a thoroughly centralized government. This is difficult, but not impossible. The people may with difficulty regain the lost art of managing their own local affairs. England is less centralized than France, yet as democracy progresses, local democratic institutions are demanded in counties, cities, and parishes.

(2) Another important lesson from the Swiss experience is the illustration which it furnishes of the power of democracy, to fuse into a united state, people of diverse races and tongues. German, Italian, and French Switzerland have been, within a marvelously short time, fused into one compact nation, with intense national feeling and national patriotism. The three separate languages are retained, yet on all questions

touching the interests of Switzerland there is one voice. There is a crude notion that the Latin races are not adapted to democracy. Yet Italian Ticino is as consistently democratic as German Zurich. It is even more remarkable that Catholic and Protestant Switzerland should be so thoroughly united. Religious controversy was as intense and bitter in Switzerland as anywhere else. The last civil war just preceding the adoption of the Constitution of 1848 was a religious war. Catholic cantons arose in rebellion, and were put down by force of arms. Yet under the democratic Constitution all questions growing out of diversity of religion are settled by mutual concession.[3]

SUPPLEMENTARY READING

CHAPTER VI

Special Lessons from Swiss Experience

[1] **Extracts From a Letter Written by the Mother-Superior of a Convent at Blois, 1662.**—"There is nothing more true than that in Blaisois, Sologne, Vendomois, Perche, the region of Chartrain, Maine, Touraine, Besey, part of Champagne, and other places, where wheat and money are lacking, there are more than thirty thousand poor reduced to the last extremity, and most of them are dying of hunger. . . . The poor are without beds, without clothing, without linen, without furniture, in short deprived of everything; they are as black as Moors, most of them looking like skeletons, and the children all swollen. . . . Many women and children have been found dead in the roads and fields, their mouths filled with grass. . . . M. Boullon, the Vicar of St. Sauveur at Blois, declares that he has seen children eating excrements; and, what is stranger, that he has seen two of them in the graveyard sucking the bones of the dead thrown out in digging a grave."

Fenlon wrote to the king: "Your people are dying of hunger. Cultivation in the fields is almost abandoned, the towns and the country are depopulated; all trades languish and no longer support the workmen. . . . Instead of taking money from these poor people, alms should be given them, and they should be fed. The whole of France is nothing but a great hospital stripped and without provisions."—*Quoted in "The Growth of a People," by Paul Lacombe, pages 188 and 191.*

[2] **The New Confederation.**—Revision of the constitution could no longer be delayed. The Diet went busily to work upon a new project, and on the 12th of September, 1848, the organic law which at the present day forms the foundation of the con-

federation was adopted by a large majority of the Swiss people. Amendments have been made from time to time, especially in 1874, but these have all been enlargements of powers already existing, and adaptations of inherent principles to the advances of time.

Switzerland obtained its federal government sixty years later than the United States, but had five centuries of prejudice to overcome. During that long period the great aim and end of all political strife was local independence, and in consideration of the race origin of the people, their national instincts, national experiences, and political education, it is no wonder that the phrase "sovereign state" should be conspicuous in the constitution. All the elevating memories of the national history, all the inspiring traditions which had been bred into national sentiment, generation after generation, were connected with a league of states of almost insulated independence. The darker periods, when fraternal feeling lost its hold and when disunion received its just reward, were enveloped in motives, religious, ambitious, or pecuniary, which are so deeply wrought into human nature that isolation, once engendered, easily perpetuated itself, grew deeper, and fastened itself into the national habit of thought.

Then, when solidarity was first offered, the form of it was so historically crude and so rudely forced upon the country, that, although common misery broke down many old prejudices, love for unity could hardly come out of it. Yet local independence has been a vital element in the evolution of the Swiss nation.

By confederation this people became strong, but, after all, the motive of union, the mainspring of political combination, was desire for local independence. Without this the Swiss republic would not have existed.

At the beginning there would have been nothing else to fight for. Later on there would have been no reasons for wider combinations, and, although it was at times sadly abused, the Swiss people, as they look back over the history of their neighbors who fell under the power of dynasties, may thank fortune that individuality was maintained.

The value of unity has been learned by hard experience, but

through it all a vigorous local self-reliance has been cultivated, than which there is no surer foundation for safe political activity in larger fields.—*"State and Federal Government in Switzerland," by John Martin Vincent, pp. 28, 29.*

[3] **Toleration.**—From a religious standpoint, Glarus occupies a unique position. Being in close communication with the Protestant canton of Zurich, and with Catholic Uri and Schwyz by the Klausen and Pragel Passes, it has ever been unusually tolerant towards either faith. The Reformation made less bad blood here than elsewhere in Switzerland, and that, too, in spite of the fact that Zwingli labored ten years as pastor of Glarus, from 1506 to 1516. The Reformer twice accompanied Swiss troops of mercenaries on their expeditions into Italy. As army chaplain he learned to know intimately all the evils which resulted from this system of foreign hire. It became a national curse; and he set his face resolutely against it. Some of his best work as a reformer was done in combating this secular, military corruption.

Zwingli also established a Latin school. Among his scholars were three boys of the Tschudi family,—Ægidius (Giles), later the historian, known as the "Herodotus of Switzerland," who remained a Catholic, but retained the friendship of both parties on account of his moderation; his brother, Peter, followed Zwingli; and a cousin, Valentin, became Zwingli's successor as pastor of Glarus. Valentin Tschudi went so far in his religious toleration as to say mass early in the morning to his Catholic parishioners, and later to preach an evangelical sermon to the Protestants. To this day the parish church in the town of Glarus is used jointly by both religious bodies, each having its own clergy and its own hours.

Another native of this valley was Heinrich Loreti, better known to the world by his Latinized name of Glareanus. He was born in the village of Mollis, became a Humanist and a friend of Zwingli, was crowned poet-laureate by Emperor Maximilian in 1512, and in his old age reverted to Catholicism. He died somewhat of a pessimist, leaving thirty works, chiefly upon philological and musical subjects.—*"Teutonic Switzerland," by W. D. McCrackan, pp. 282-284.*

QUESTIONS FOR REVIEW. PART II

1. What are the chief peculiarities of the geography of Switzerland? How has the geography affected the history? What peoples have inhabited the land? What is the difference between the German and French Switzerland? Who were the Lake Dwellers? How does the history of Switzerland resemble that of America?

2. What are the chief features of land tenures in the three Forest Cantons? Why did they form an alliance? Describe the original cantons of Switzerland. Explain the story of William Tell. What truth is there in the story of William Tell?

3. At the time of the alliance what was the condition of the feudal system in Europe? What was the effect of the alliance on adjacent peoples? Give the number of cantons at different dates. When did the European nations recognize the independence of Switzerland? Was Switzerland then a united State? What was the effect of the French Revolution on Switzerland? What was the Hanseatic League? What was the first perpetual league? Give the various steps in the development of democracy in Switzerland.

4. What is the chief business of a democratic State? What is the difference between democracy and equality

as illustrated in the caste system? Were the early Swiss believers in democracy? How did they govern their provinces? Name some of the great reformers of Switzerland. What was the relation of Napoleon I. to the Swiss democracy?

5. How does Switzerland reflect the life of Europe? When and how did Switzerland become a united State? Why was democracy necessary to the union of Switzerland? How did the aristocracy regain political influence under the constitution of 1848? Name some of the public works which have contributed to the success of Swiss democracy. What is the Swiss Referendum?

6. How may the poverty of a country contribute to the wealth of a people and the richness of a country contribute to their starvation? How does local government favor democracy? Why is democracy peculiarly adapted to the fusion of diverse races into a united State? Describe the new Confederation in Switzerland. To what extent has Switzerland maintained toleration?

SUBJECTS FOR SPECIAL STUDY

1. The effect of geography on the history of peoples.

2. The history of Switzerland.

3. Contemporaneous history of Europe.

4. The special relations of Switzerland to Germany and to France.

5. The writings of Rousseau.

6. The works of Pestalozzi and Froebel.

PART III

Origin of English Democracy

CHAPTER I

THE NATURE OF ENGLISH DEMOCRACY

IN THE CASE of Switzerland, we have seen that customs and habits acquired in the primitive village state, have been preserved through centuries; through the feudalism of the Middle Ages; through the attacks of the later monarchs, till finally, at the end of the Napoleonic wars, the monarchs of Europe confessed that the country could neither be partitioned, as Poland had been, nor could it be subjected to the rule of any monarch. Hence, the Holy Alliance left Switzerland united and republican, and especially sensitive to the democratic impulses of the age. In united Democratic Switzerland, there is a prophecy of an ultimate united democratic Europe.

(1) England is an island state. As the mountains and lakes protected Switzerland from the full domination of the great states of the continent, so the "silver streak" separating England from the Continent served in many ways to give the country an independent history. In England, as in Switzerland, traces of the original village state have been preserved. Like the

Swiss, the English were ever devoted to their ancient liberties and privileges, and they have exhibited similar habits of courage in the defense of their liberties. In each country, local government has played an important part in the political training of the people.[1] In Switzerland, the geography of the country favored the formation of many small, independent states or cantons. In England, on the other hand, nature favored the formation of a single, compact state. England also differs from Switzerland in that the land is comparatively rich and fertile.

England, as an island state, includes the two islands of Great Britain and Ireland. As an Imperial State, it holds possessions in all the continents. Switzerland has been wedged in between great states. England for many centuries has itself been a great state. In the early Middle Ages, the Welsh contended on equal terms against the English. Later, Wales became a part of the English state.

Scotland, in alliance with strong continental nations, maintained a good degree of independence of England until the seventeenth century; and the full union was not completed till 1707, while England's full union with Ireland was not effected till a hundred years later. In the meantime, imperial England had grown, and it has since continued to grow, until to-day Great Britain is accounted the most formidable state in the world.

(2) The Swiss, with the use of democratic or republican forms of government, have ever contended against

surrounding monarchies. England, on the other hand, has ever been a monarchy. It furnishes the best illustration in history of the development of a democracy, while the form of monarchy is still retained.[2] Swiss democracy dates from 1830, when the cantons engaged in liberal reforms and from 1848, when a democratic constitution for the general government was adopted. In England, the first great democratic measure, known as the Reform Bill, was adopted in 1832. Since then there has been continuous development toward democracy.

It is said that Lord Salisbury once had an interview with Queen Victoria, and that he plainly told Her Majesty that he could no longer be responsible for the government of England, unless the Queen should recede from her position in the attitude of England toward Russia. The news-gatherer may not be correct in his statements as to what the Prime Minister of England said to the Queen. Yet the statement, whether true or false, illustrates an important fact in the present working of the English Constitution. The Cabinet makes up its mind as to the policy which it deems necessary that the country should follow in a given emergency. The Prime Minister, as the spokesman of the Cabinet, confers with the Queen. The Queen may seek to change the mind of the Cabinet. Failing in this, it is the duty of the Queen to give effect to whatever the Cabinet deems necessary.[3] If, however, the Queen is of the opinion that the Cabinet is not in harmony with the voting constituency, the Democracy of

INTERIOR HOUSE OF LORDS, LONDON, ENGLAND

England, she may accept the resignation of the Ministers and appoint others in their places; and if the new Cabinet is supported by the House of Commons, and by the voting constituency, the Queen is vindicated as a democratic leader.

(3) The House of Lords is composed of members chosen according to ancient aristocratic forms. Yet since the Reform Act of 1832, the principle is clearly recognized that it is the duty of the House of Lords to give effect to whatever the nation insists upon, as indicated by the election of members of the House of Commons. Within ten years the House of Lords rejected two bills for the establishment of an Irish legislature. Yet in each case the political party which was responsible for the bill was defeated at the ensuing elections. This is accepted as an indication that the nation did not intend to insist upon the measure. If after such an issue the same party were to be returned to power, and there were a clear indication that the voters demanded the measure, then it would be the duty of the Lords to yield, and if the Lords still refused, it would be the duty of the Crown to create enough new Lords to pass the bill.[4]

England, under the training of recent years, is not only becoming democratic, but it is becoming exceedingly sensitive and responsive to public opinion. Democracy is frankly accepted, and the existence of every sacred and venerable institution is staked upon the good opinion of the voting constituency.

SUPPLEMENTARY READING

CHAPTER I

Introductory Statement

[1] **Origin of English Democracy.**—The life, the sovereignty, of the settlement was solely in the body of the freemen whose holdings lay round the moot-hill or the sacred tree where the community met from time to time to order its own industry and to make its own laws. Here new settlers were admitted to the freedom of the township and by-laws framed, and headman and tithing-man chosen for its governance. Here ploughland and meadow-land were shared in due lot among the villagers, and field and homestead passed from man to man by the delivery of a turf cut from its soil. Here strife of farmer with farmer was settled, according to the "customs" of the township as its elder men stated them, and four men were chosen to follow headman or earldorman to hundred-court or war. It is with a reverence such as is stirred by the sight of the headwaters of some mighty river, that one looks back to these village-moots of Friesland or Sleswick. It was here that England learned to be a "mother of parliaments." It was in these tiny knots of husbandmen that the men from whom Englishmen were to spring learned the worth of public opinion, of public discussion, the worth of the agreement, the "common sense," the general conviction to which discussion leads, as of the laws which derive their force from being expressions of that general conviction. A humorist of our own day has laughed at parliaments as "talking-shops," and the laugh has been echoed by some who have taken humor for argument. But talk is persuasion, and persuasion is force, the one force which can sway freemen to deeds such as those which have made England what she is. The "talk" of the village moot, the strife and judgment of

men giving freely their own rede, and setting it as freely aside for what they learn to be the wiser rede of other men, is the groundwork of English history.—*"The Making of England," by J. R. Green, pp. 187, 188. Edition of 1882, New York.*

[2] **Powers of the Crown.**—In our earliest and in our latest system, the King is clothed with an office, the duties of which are to be discharged for the common good of all. In the intermediate times it sometimes seemed as if the King had been made master of a possession, which was to be enjoyed for his personal pleasure and profit. In the intermediate times we constantly hear of the rights and powers of the Crown as something distinct from, and almost hostile to, the common rights of the people.

In our earliest and in our latest times the rights of the Crown and the rights of the people are the same, for it is allowed that the powers of the Crown are to be exercised for the welfare of the people by the advice and consent of the people or their representatives.

Without indulging in any Utopian dreams, without picturing to ourselves the England of a thousand years back as an earthly paradise, the voice of sober history does assuredly teach us that those distant times have really much that is in common with our own, much in which we are really nearer to them than to times which, in a mere reckoning of years, are far less distant from us. Thus it is that the cycle has come round, that the days of foreign rule have been wiped out, and that England is England once again. Our present Sovereign reigns by as good a right as Ælfred or Harold, for she reigns by the same right by which they reigned, by the will of the people, embodied in the Act of Parliament which made the crown of Ælfred and Harold hereditary in her ancestress. And, reigning by the same right by which they reigned, she reigns also for the same ends, for the common good of the nation of which the Law has made her the head. And we can wish nothing better for her kingdom than that the Crown which she so lawfully holds, which she has so worthily worn among two generations of her people, she may, like Nestor of old, continue to wear amid the well-deserved

affection of a third.—*"Growth of the English Constitution," by Edward A. Freeman, pp. 205, 206.*

[3] **Rights of Sovereigns.**—To state the matter shortly, the sovereign has, under a constitutional monarchy such as ours, three rights — the right to be consulted, the right to encourage, the right to warn. And a king of great sense and sagacity would want no others. He would find that his having no others would enable him to use these with singular effect. He would say to his minister: "The responsibility of these measures is upon you. Whatever you think best must be done. Whatever you think best shall have my full and effectual support. *But* you will observe that for this reason, and that reason, what you propose to do is bad; for this reason and for that reason, what you do not propose is better. I do not oppose, it is my duty not to oppose; but observe that I *warn.*" Supposing the king to be right, and to have what kings often have, the gift of effectual expression, he could not help moving his minister. He might not always turn his course, but he would always trouble his mind.—*"The English Constitution," by Bagehot, pp. 139, 140.*

[4] **Method of Securing Harmony.**—Two facts in the past history of England are cited as indicating the method of securing harmony. The first belongs to a time long before the theory of the subordination of the House of Lords had been developed, and at a time when the personal will of the Monarch was a much larger factor in the Executive than it is to-day. Queen Anne, in 1711, created twelve new peers in order to secure the passage of a bill through the House of Lords. But the case which is chiefly relied upon in support of this method is that of 1832.

The Reform Bill having passed through all the various stages which have been outlined, and the Peers still refusing to yield, the King gave to the Prime Minister a written statement that in case the Lords still remained obdurate he would create enough new Peers to secure the passage of the bill.

In view of this threat the Peers yielded and passed the bill. It is out of this case especially that the theory of the subordination of the House of Lords has been developed.—*"The English Constitution," by Jesse Macy, pp. 51, 52.*

CHAPTER II

THE ORIGIN OF ENGLISH DEMOCRACY

THE democratic state of Switzerland has been slowly formed around the German villages established in the Forest Cantons. The people have held to their primitive institutions, until they were finally united under a government of their own formation and approval. In England, the democratic state has been slowly built up around the monarch. The chiefs who led the English in the conquest of the Britons became their petty kings. For a time the English in England were subject to many warring kings, till finally all were united under one monarch. In the meantime the feudal system began to appear, and the village farmers became subject to warrior chiefs. Heathen England became Christian, and the people were made subject to an experienced church government drilled to the practice of Roman Law.[1]

(1) There thus appeared four distinguishable sources of political power and influence. First, there were the primitive local communities with their habits of local government. Then there was the king, who was leader in war and head over all. Next were the subordinate warrior chiefs who were between king and people. Added to these were the clergy, exercising authority over many matters now belonging to the State.

(2) From the advent of Christianity, at the end of the sixth century, these four classes, or factions thereof, contended for the chief place of power and influence. At no time has one class been able to utterly crush out the others. There has been continuous strife, and civil wars innumerable. Not until the advent of democracy in the Victorian Age had there appeared promise of perpetual domestic peace.

(3) When the Normans conquered England, in 1066, it was already an old and established kingdom. On the Continent the feudal system was fully developed. In England it was but imperfectly formed. William of Normandy imported French feudalism, but he took care that the power of the feudal lords should be placed under more strict control. For support against his feudal lords, he looked to the English people.[2] He carefully preserved their local governments as he found them in towns, and parishes, and counties. William also recognized the Church in such a manner that he could more conveniently use it against the great lords. Everywhere under the feudal system, the chief conflict was between the king and the great feudal lords. In France this was a dual conflict, and the result was the complete triumph of the king over the lords, which gave absolute rule to the monarch and led up to the Great Revolution. In England it was a four-handed conflict. The clergy were pitted against the nobility, and there was a constant appeal to large sections of the people, as arbiters between contending fac-

tions. At all times there was maintained a sort of balance of power between king, clergy, and nobles, with the people as arbiters.

(4) The various classes were not always united among themselves. The nobility were divided into great lords, or tenants in chief, who held lands direct from the king; and lesser lords who were for the most part feudal subjects of the great lords. It often happened that the lesser nobility sided with king or people, against the great lords. There was a similar division among the clergy. It often happened that the lower clergy sided with the people, against the higher clergy who took the side of the king or lords. As to the people, there were all sorts and conditions. At the time of the Norman conquest more than half of them were slaves. Yet it was that peculiar sort of slavery which secured to the subject certain rights to the soil, and an important voice in the settlement of disputes. In France, as the serfs were freed from the soil, they became more completely enslaved to the will of rulers. In England this was not the case. The ruling classes were ever at war among themselves. The serfs gained their liberties by favoring that class of rulers which treated them best. They took a conscious share in the settling of political disputes, and they grew in political experience.

(5) The key to this unique method of growth of English democracy, is found in the fact that great and powerful kings looked to the local governments among

the people for support against the great lords. The barons of William I. were Frenchmen speaking a foreign tongue, and as such, they were naturally disliked and distrusted by their English subjects. And William took care that the estates of these barons should be so distributed that they could not easily muster their tenantry for war. He took care also that the military training of his English subjects should not be neglected. These were trained under local officers of their own, or under officers chosen by the king. The barons were thus surrounded by a force to keep them in check. The three Norman kings ruled the barons with an iron hand. William II. had to contend for his crown against his older brother, Robert, supported by the English barons; but the support of the English soldiery enabled him to gain an easy victory. William II. was tyrannical, brutal, offensive to all who knew him; yet, having the support of the English peasants, he overcame all enemies. Henry I. married an English wife. He conciliated the Church by the restoration of privileges taken from it by the former king. He gained the favor of commercial classes by granting charters to towns, and he also granted a general charter which more than a hundred years later, was made the basis of Magna Charta. The barons were completely subject to his rule.

(6) For twenty years after the death of Henry I. the feudal nobility ran riot. England was treated to the sort of rule which for centuries produced continual

famine in the rich state of France. There was a disputed succession. Part of the time Stephen ruled, and part of the time Matilda; and all the time there was brutality and violence. The barons erected castles and practiced the feudal habit of rapine and plunder.[3] Yet all this contributed to the training of the people for their high mission. In the midst of the general confusion, the Church furnished a rallying point for the order-loving. It was through the agency of the clergy that order was restored, and the crown was bestowed upon the son of Matilda. In Henry II. the people found a king who could again lead them in the ways of orderly government.[4] He was a great statesman. Even more than William I. and Henry I. he looked to the local institutions among the people for support against the unruly nobility.[5] So thorough and effective was his system of government that when, during his absence in France, the barons revolted, the people arose of their own accord and put down the rebellion. The barons thus came to see that so long as the people were united against them, their cause was hopeless and the independence of their class was threatened. Their only hope was in winning the people.

SUPPLEMENTARY READING

CHAPTER II

The Balance of Power

[1] **The Balance of Power.**—Nothing was more characteristic of Roman Christianity than its administrative organization. Its ordered hierarchy of bishops, priests, and lower clergy, its judicial and deliberative machinery, its courts and councils had become a part of its very existence, and settled with it on every land that it won. Gregory, as we have seen, had platted out the yet heathen Britain into an ordered church with two archbishops, each surrounded by twelve suffragan sees; and though the carrying out of this scheme in its actual form had proved impossible, yet it was certain that the first effort of the Roman see, now that the ground was clear, would be to replace it by some analogous arrangement. But no such religious organization could stamp itself on English soil without telling on the civil organization about it. The regular subordination of priest to bishop, of bishop to primate, in the administration of the church would supply a mould on which the civil organization of the State would unconsciously, but irresistibly, shape itself. The gatherings of the clergy in national synods would inevitably lead the way to national gatherings for civil legislation. Above all, if the nation in its spiritual capacity came to recognize the authority of a single primate, it would insensibly be lead in its temporal capacity to recognize a single sovereign.—*"The Making of England," by J. R. Green, p. 302. Edition of 1882, New York.*

[2] **William and the Nobles.**—William found himself fronted in his new realm by the feudal baronage whom he had so hardly subdued to his will in Normandy; nobles impatient of law and aiming at an hereditary, military, and judicial power, within their own manors, independent of the king. The genius of the Con-

queror is shown in his quick discernment of this danger and in the skill with which he met it. He availed himself of the old legal constitution of the country to hold justice firmly in his own hands. He retained the local courts of the hundred and the shire, where every freeman had a place, while he subjected all to the jurisdiction of the King's court, which, toward the close of the earlier English monarchy, had assumed the right of hearing appeals and of calling up cases from any quarter to its bar. The authority of the Crown was maintained by the abolition of the great Earldoms which had overshadowed it, those of Wessex, Mercia, and Northumberland, and by the royal nomination of sheriffs for the government of the shires. The estates of the great nobles, large as they were, were scattered over the country in a way which made union between the land-owners, or the hereditary attachment of great masses of vassals to a separate lord, equally impossible.—*"Short History of the English People," by J. R. Green, Edition of 1879.*

[3] **Cruelty of the Barons.**—The war now lapsed into sheer anarchy. The barons on either side broke loose from all restraint. "They fought among themselves with deadly hatred; they spoiled the fairest lands with fire and rapine, in what had been the most fertile of counties, they destroyed almost all the provisions of bread." All goods and money they carried off, and if they suspected any man to have concealed treasure they tortured him to oblige him to confess where it was. "They hanged up men by the feet and smoked them with foul smoke; some were hanged up by the thumbs, others by their heads, and burning things were hung on to their feet. They put knotted strings about men's heads, and twisted them till they went to the brain." —*"Students' History of England," by Gardiner, Vol. I., p. 134.*

[4] **England Under Henry II.**—England under Henry II. was already growing more united and more national. The crown which Henry derived from the Conqueror was national as well as feudal. Henry, like his predecessors, had two strings to his bow. On the one hand, he could call upon his vassals to be faithful to him because they had sworn homage to him, whilst he himself, as far as England was concerned, had sworn homage to

no one. On the other hand, he could rally round him the national forces. To do this he must do justice and gain the good will of the people at large. It was this that he had attempted to do by sending judges round the country and by improving the law; by establishing scutage to weaken the power of the barons, and by strengthening the national forces by the Assize of Arms. No doubt he had little thanks for his pains. Men could feel the weight of his arm and could complain of the heavy fines enacted in his courts of justice. It was only a later generation which enjoyed the benefits of his hard discipline, which understood how much England owed to him.— *Ibid., p. 158.*

[5] **Royal Rule by Means of Council.**—During the reign of Henry II. much progress was made in the development of a separate judiciary. Henry I. had neglected the Great Council, and governed by means of a smaller administrative body. Henry II. kept the higher nobility and clergy under his control throughout his reign by a constant use of the council, while at the same time he more thoroughly organized the high offices of State whereby the king's government was kept in effective working relations with the local governments in county, hundred, and town.

Justices from the king's court, or *Curia Regis,* visited the county courts as in the time of Henry I. The county was at one time divided into six districts with three justices assigned to each district. Later, twenty-one justices were distributed among four districts. Five justices were delegated to hear claims and plaints of the people, and if questions arose which they could not decide, such questions were to be presented to the king and his wise men. Henry II. cannot be said to have created the independent common law courts, but his organization of the judiciary tended to that end. Two hundred years were needed to complete the separation which finally grew out of his system of courts. There is yet in the judicial functions of the House of Lords and of the Privy Council a remnant of the judicial duties which once belonged to the undivided *Curia Regis,* which was not in its origin distinguishable from the one national assembly.— *"The English Constitution," by J. Macy, p. 149.*

CHAPTER III

THE MAGNA CHARTA

GREEN begins his account of King John by quoting from an old English chronicle the words "Foul as it is, hell itself is defiled by the fouler presence of John." Then Green states that this terrible verdict of John's contemporaries has passed into the sober judgment of history. The united disgust of the nation has forever banished the name of John from the royal family.

(1) It would be difficult to find a more vivid picture of the difference between European and Asiatic civilization, than is furnished by this fact in English history. Even in progressive Japan, the Christian population are in a quandary as to whether they shall make the customary bow to the picture of the Emperor everywhere displayed. To the heathen native the bowing is an act of worship. The Asiatics are trained to worship the Emperor, and all his predecessors as divine beings. Europeans are trained to sit in judgment upon their rulers. King Ælfred is admired because he labored and suffered, for the good of the people. William Rufus and King John are consigned to infamy for their tyranny and brutality. The one kind of training involves despotism; the other involves democracy.

(2) Magna Charta belongs to the United States as much as to the British Empire.[1] In a sense it belongs to the whole world, because it represents certain fundamental principles which are being worked out in all history. In all states of every variety the rulers are apt to go wrong. Wrong-doing in rulers can be corrected in but one way; that is, by an appeal to the people, or to some portion of the people. In a despotism, wrong-doing is usually corrected by destroying one despot and putting another in his place. In a really successful despotism, the appeal is never made to the people as a whole, but to factions within a clearly defined ruling class, all of whose members are in conspiracy against the people. Intolerable conduct on the part of despotic rulers is usually prevented by revolutions and assassinations within this limited class. In progressive states the appeal is to a wider and wider constituency.

(3) Magna Charta is the record of an appeal to the people, by one of the great states of Europe. Its character and the circumstances of its production, fit it to be a symbol of appeal against tyrants, to all peoples of all lands. From the Norman Conquest to Magna Charta is a period of one hundred and fifty years. Of the seven kings, three, William I., Henry I., and Henry II., were statesmen of the first rank. Each of these had labored to bring the king's government into effective coöperation with the local institutions of the people. Before John came to the throne, there had been

WINDSOR CASTLE, ENGLAND

ten years of tyranny and misrule under Richard I. Yet, so effective was the king's government as perfected by Henry II. that it required fifteen more years of the tyranny of John to develop a successful revolution.

With all his iniquity John was an able ruler. He impressed all classes as being infinitely dangerous. Under stress of fear of the king, the nobility composed their differences, and sought to convince the people that their interests were safer in the hands of the barons than in the hand of the king. In fear of the king, the higher and lower clergy also sought to persuade the people to unite against the king. In view of a common danger, barons, knights, bishops, and priests united in the leadership of the people, in their demands upon the king for a redress of grievances.[2] In the stress of the conflict, the Charter of Henry I., given a hundred years earlier, was discovered. The Great Charter was deliberately written out in consultation with representatives from various classes of the people. It contains a summary of the rights and privileges which the various classes of the people demanded of their ruler.

(4) The people did not immediately realize the liberties named in Magna Charta. The barons who secured John's signature at the point of the sword, knew that he did not intend to observe its provisions. So they appointed twenty-five of their number to make war upon him in case he disobeyed. And they made John say, in one section of the Charter, that he would

himself issue orders to the twenty-five and compel them to make war upon him, in case he disobeyed the provisions of the Charter.[8]

Magna Charta is important in the development of free government, because it is a conspicuous illustration of a united people requiring of their king that he should obey the laws. Other kings were required to make similar promises. The Charter was made a standard for the judgment of future kings. The history of the Charter furnishes an illustration of the important principle, that in a progressive State, law is made to favor the people, and to limit the power of the sovereign.

SUPPLEMENTARY READING

CHAPTER III

The Magna Charta

[1] **The Great Charter.**—Copies of it were made and sent for preservation to the cathedrals and churches, and one copy may still be seen in the British Museum, injured by age and fire, but with the royal seal still hanging from the brown, shriveled parchment. It is impossible to gaze without reverence on the earliest monument of English freedom which we can see with our own eyes and touch with our own hands, the great Charter to which from age to age men have looked back as the groundwork of English liberty. But in itself the Charter was no novelty, nor did it claim to establish any new constitutional principles.

The Charter of Henry the First formed the basis of the whole, and the additions to it are for the most part formal recognitions of the judicial and administrative changes introduced by Henry the Second. What was new in it was its origin. In form, like the Charter on which it was based, it was nothing but a royal grant. In actual fact it was a treaty between the whole English people and its king. In it England found itself for the first time since the Conquest a nation bound together by common national interests, by a common national sympathy.

In words which almost close the Charter the "community of the whole land" is recognized as the great body from which the restraining power of the baronage takes its validity. There is no distinction of blood or class, of Norman or not Norman, of noble or not noble. All are recognized as Englishmen, the rights of all are owned as English rights. Bishops and nobles claimed and secured at Runnymede the rights not of baron and churchman only, but those of freeholder and merchant, of townsman and villein. The provisions against wrong and extortion which the

barons drew up, as against the King for themselves, they drew up as against themselves for their tenants. Based too as it professed to be, on Henry's Charter it was far from being a mere copy of what had gone before. The vague expressions of the old Charter were now exchanged for precise and elaborate provisions.

The bonds of unwritten custom which the older grant did little more than recognize had proved too weak to hold the Angevins; and the baronage set them aside for the restraints of written and defined law. It is in this way that the Great Charter marks the transition from the age of traditional rights, preserved in the nation's memory and officially declared by the Primate, to the age of written legislation, of Parliaments and Statutes, which was to come.—*"History of the English People," by John Richard Green, Vol. I., pp. 244, 245.*

[2] **John and the Barons.**—Though the English barons still spoke French, and were proud of their Norman descent, they now thought of themselves as Englishmen and cared for England alone.

John turned furiously on the barons, and was only hindered from attacking them by the new Archbishop, who threatened to excommunicate every one who took arms against them.

It was time for all Englishmen who loved law and order to resist John. Stephen Langton put himself at the head of the movement, and at a great assembly at St. Paul's produced a charter of Henry I., by which that king had promised to put an end to the tyranny of the Red King, and declared amid general applause that it must be renewed by John. It was a memorable scene.

Up to this time it had been necessary for the clergy and the people to support the king against the tyranny of the barons. Now the clergy and people offered their support to the barons against the tyranny of the king. John had merely the Pope on his side. Innocent's view of the situation was very simple. John was to obey the Pope, and all John's subjects were to obey John. A papal legate arrived in England, fixed the sum which John was to pay to the clergy, and refused to listen to the com-

plaints of those who thought themselves defrauded.—*"Students' History of England," by Gardiner, Vol. I., p. 181.*

[8] **Section of Magna Charta.**—And whereas We, for the honor of God and the amendment of Our realm, and in order the better to allay the discord arisen between Us and Our barons, have granted all these things aforesaid.

We, willing that they be forever enjoyed wholly and in lasting strength, do give and grant to Our subjects the following security, to wit, that the barons shall elect any twenty-five barons of the kingdom at will, who shall, with their utmost power, keep, hold, and cause to be holden the peace and liberties which We have granted unto them, and by this Our present Charter confirmed, so that, for instance, if We, Our Justiciary, bailiffs, or any of Our ministers, offend in any respect against any man, or shall transgress any of these articles of peace or security, and the offense be brought before four of the said five and twenty barons, those four barons shall come before Us, or Our Chief Justiciary, if We are out of the kingdom, declaring the offense, and shall demand speedy amends for the same.

And if We or in case of Our being out of the kingdom, Our Chief Justiciary, fail to afford redress within the space of forty days from the time the case was brought before Us, or Our Chief Justiciary, the aforesaid four barons shall refer the matter to the rest of the twenty-five barons, who, together with the commonalty of the whole county, shall distrain and distress Us, to the utmost of their power, to wit, by capture of our castles, lands, possessions, and all other possible means, until compensation be made according to their decision, saving Our person, and that of Our Queen, and children, and as soon as that be done they shall return to their former allegiance.

Any one whatsoever in the kingdom may taken oath that, for the accomplishment of all the aforesaid matters, he will obey the orders of the said twenty-five barons, and distress Us to the utmost of his power: and We give public and free leave to every one wishing to take such oath to do so, and to none will We deny the same.

Moreover, We will compel all such of Our subjects who shall

decline to swear to, and together with the said twenty-five barons to distrain and distress Us, of their own free will and accord, to do so by our command as is aforesaid.

And if any one of the twenty-five barons shall die or leave the country, or be in any way hindered from executing the said office, the rest of the said twenty-five barons shall choose another in his stead, at their discretion, who shall be sworn in like manner as the others.

And in all cases which are referred to the said twenty-five barons to execute, and in which a difference shall arise among them, supposing them all to be present, or that all who have been summoned are unwilling or unable to appear, the verdict of the majority shall be considered as firm and binding as if the whole number should have been of one mind. * * *

And We will not procure, either by Ourself or any other, anything from any man whereby any of the said concessions or liberties may be revoked or abated; and if any such procurement be made let it be null and void; it shall never be made use of either by Us or any other.

We have also wholly remitted and condoned all ill-will, wrath, and malice which have arisen between Us and Our subjects, clerks and laymen, during the disputes, to and with all men; and We have moreover fully remitted, and as far as in Us lies, wholly condoned to and with all clerks and laymen all trespasses made in consequence of the said disputes from Easter in the sixteenth year of Our reign till the restoration of peace.

And, over and above this, We have caused to be made in their behalf letters patent by testimony of Stephen, Archbishop of Canterbury, Henry, Archbishop of Dublin, the bishops above mentioned, and Master Pandulph, upon the security and concession aforesaid.

Wherefore We will and firmly charge that the English Church be free, and that all men in Our Kingdom have and hold all the aforesaid liberties, rights, and concessions, well and peaceably, freely, quietly, fully, and wholly, to them and their heirs, of Us and Our heirs, in all things and places for ever, as is aforesaid. —*From Text of Magna Charta.*

CHAPTER IV

THE WARS OF THE ROSES

THE Charter was given in 1215 and the Wars of the Roses began in the middle of the fifteenth century and continued, with various interruptions, until the crowning of Henry Tudor in 1485. During these centuries the conflicts went on between kings and barons and clergy. The barons had drawn their swords on behalf of the liberties of the people, but it was not of the nature of feudal lords to continue to fight for the liberties of the people. Only when confronted by peculiarly dangerous or obnoxious kings, did they curry favor with the people by granting them liberties.

(1) It was, however, of immense advantage to the people that both king and powerful subjects appealed to them for support. It was in another baron's war fifty years after the giving of the Charter, that representatives from counties and towns were called to attend the meetings of the National Council.[1] In this way the House of Commons came to be added to the older Council of Notables, which now continues as the House of Lords. On account of conflict among rulers, the Common Law and the courts of law were more favorable to the people than they would otherwise have been. The nobility became divided into more or less perma-

nent factions, and these were known as being opposed or favorable to the rights of the people. These factors finally broke out into the Wars of the Roses, which resulted in wiping out of existence the old feudal armies. The coming in of the Tudors introduces a new chapter in English history. It is the end of the age of perpetual violence and brute force. The Tudors brought both the nobility and the clergy under the rule of the laws of the land. The common people had long been subject to law. It is the great merit of Henry VII. and Henry VIII. that they made dukes and cardinals likewise subject to law.[2] This history illustrates the principle that the true State is founded upon law and reason rather than upon brute force. Appeal to force tends naturally to destroy the State. The use of force strengthens the State only when it is used to destroy the agencies of violence and extortion.

(2) Many of the acts of the Tudor kings are accounted brutal and tyrannical. But in nearly all cases they were directed against institutions and persons unfriendly to the people. They looked for support to the law-abiding middle and lower classes, while they restrained and destroyed the unruly upper classes. The famous Star Chamber of Henry VII. is known in later times as an agency of oppression. In the time of Henry, nobles surrounded themselves with armed retainers. They overawed courts and murdered jurors and made it impossible to get justice in the ordinary courts. By the use of the Star Chamber, the king

brought these practices to an end. The nobles had built up fortunes by violence and extortion; by the use of the Star Chamber the king appropriated their property for the public good. The Church had for centuries been growing rich and corrupt. In nearly every conflict where the rights of the people were involved, the higher clergy took the side of tyranny and oppression. It was at the instigation of the clergy that the followers of Wiclif were put down. The first Tudor left the Church still in possession of its privileges and property. But in the time of Henry VIII. the Protestant Reformation sprung up, and as an incident to the reorganization of the English Church under the impulse of Protestant teachings, it was stripped of much of its property and nearly all of its independent political power.[8]

(3) By the Wars of the Roses, and by the high-handed acts of the first Tudor monarchs, the old balance of power in the State was greatly changed. The feudal nobility, commanding armies independently of the monarch, gave place to an aristocracy exercising power and influence as members of the House of Lords, or as officers of the king, or simply as men influencing the opinions of the people. The Church having a large share in the government and exerting a power independent of both king and nobles had passed away, and England had become divided into two religious societies contending for supremacy. Henry VIII.'s reign was followed by the brief rule of Edward

VI., in which Catholics were persecuted; and then followed the reign of Mary, in which Protestants were burned at the stake.

(4) When Elizabeth began her long rule, England was half Protestant and half Catholic. On the Continent there was war between Protestant and Catholic states. It was Elizabeth's policy to keep the peace between her subjects: to prevent civil war. At the end of Elizabeth's rule, England had become almost wholly Protestant; but the habit of religious controversy remained, and the Protestants were divided among themselves. The Church as an independent political factor had disappeared, but religious opinion had become a political factor of great consequence. There had been more than a century of printing, of "new learning" and of intellectual awakening; and during nearly all this time England had been kept at peace. The people had had time to think. The condition of the masses had greatly improved. From this time forward, England is governed by opinions and beliefs rather than by brute force. A balance of beliefs takes the place of independent factions appealing to the sword to vindicate their rights.

(5) Opinions, however, need organs for expression. In England the House of Commons has become the chief organ for embodying the opinion of the nation in conduct and institutions. Before the reign of Elizabeth, the House of Commons had for centuries been an effective organ for executing the will of the dom-

iriant faction of the day. It had never been an organ for the expression of the will of the nation. Any faction which happened to have an effective army at hand, could control the action of Parliament, could cause it to depose kings, to set up new lines of kings, to punish officers of state, to destroy enemies by bills of attainder, and to confiscate estates. For centuries before Parliament was thought of, as an agency for expressing the will of the nation, it had been used as an agency of superior force. But after the unruly classes had been subdued by Tudor rule, after a century of law and order, after the sentiments and beliefs of the people had been stirred to their foundations by religious controversy, the House of Commons came to be looked upon as an agency for carrying into effect the will of the nation, even against the will of the monarch. From the beginning of her regin, Elizabeth had trouble with her Commons. Many times she was induced or forced to yield to their wishes. Instead of a feudal army to redress grievances by unlawful war, the Tudors left a legislative assembly to redress grievances by lawful votes.[4]

SUPPLEMENTARY READING

CHAPTER IV

The Wars of the Roses

[1] **Arbitration.**—Simon followed up his victory by an agreement called the Mise of Lewes, according to which all matters of dispute were again to be referred to arbitration. In the meantime there were to be three electors, Earl Simon himself, the Earl of Gloucester, and the Bishop of Hereford. These were to elect nine councillors, who were to name the ministers of state. To keep these councillors within bounds a Parliament was called, in which, with the barons, bishops, and abbots, there sat not only four chosen knights for each shire, but also for the first time two representatives of certain towns. This Parliament met in 1265. It was not, indeed, a full parliament, as only Simon's partisans among the barons were summoned, but it was the fullest representation of England as a whole which had yet met, and not a merely baronial committee like that proposed in 1258. The views of Simon were clearly indicated in an argumentative Latin poem written after the battle of Lewes by one of his supporters. In this poem the king's claim to do as he likes with his own is met by a demand that he shall rule according to law. Such a demand was made by others than the poet. "The king," a great lawyer of the day had said, "is not subject to any man, but to God and the law." The difficulty still remained of ascertaining what the law was. The poet did not, indeed, anticipate modern theories, and hold that the law was what the representatives of the people made it to be; but he held that the law consisted in the old customs, and that the people themselves must be appealed to as the witnesses of what those old customs were. "Therefore," he wrote, "let the community of the kingdom advise, and let it be known what the generality thinks, to whom their own laws

are best known. Nor are all those of the country so ignorant that they do not know better than strangers the customs of their own kingdom which have been handed down to them by their ancestors." The poet, in short, regarded the Parliament as a national jury, whose duty it was to give evidence on the laws and customs of the nation in the same way that a local jury gave evidence on local matters.—*"Students' History of England," by Gardiner, Vol. I., pp. 201-203.*

[2] **Henry VII.**—Henry VII. was a good, virtuous tyrant. He paid little attention to Parliament during his reign, which lasted twenty-four years. There is evidence that his tyranny, virtuous as it was, would have broken down had it been longer continued. His tools of the Star Chamber, Empson and Dudley, were speedily executed by the new king in response to a popular demand.

I admit that it requires an effort to see in the reign of Henry VII. much of the theory of the modern English Constitution. But there is in this reign one thing which should never be lost sight of. It might easily have happened that the great lords during this period should have regained much of their lost power. Henry might very naturally have rested for support upon them instead of upon a large number of middle-class folk. Had he done this there is reason to believe that the habit of going to war against the king would have continued.

But Henry VII. initiated a policy which was fatal to the leadership of the great lords. This policy was continued and perfected by Henry VIII. Had this work been less thoroughly done, it is not likely that there could have been a century without civil war. If there had not been a century of government according to the forms of law it is not likely that the Stuart kings would have been called upon to face that state of the public mind which actually confronted them. It is in this rather remote way that Henry VII. may be said to have contributed to the formation of the state of mind out of which the peculiar Constitution of England is constructed.—*"The English Constitution," by Jesse Macy, pp. 217, 218.*

[3] **Church in America.**—In America the Church is regarded

as simply a religious society; it has no direct connection with the government. Seeing that the Church of the Middle Ages held and administered large estates, and formed an important part of the government, we may be in danger of neglecting to give due weight to its teaching functions. While it is well to distinguish between the two offices of the Church, it is not well to forget that both existed. The religious teaching of the Church has had quite as much to do with the origin of the modern Constitution as has its government.

It was the consciousness of a common religion that tended most to efface the distinction between Norman and English. In the twelfth century a national religious revival coincided with the preaching of the monks and the founding of religious houses. In the thirteenth century came the Friars and cast in their lot with lepers and beggars on the outskirts of the cities. These occurrences profoundly affected the religious sentiment of the nation. The charitable feelings of men were stimulated; hospitals were founded, and learning was encouraged.—*Ibid., p. 27.*

[4] **Victories of Parliament.**—While England thus became "a nest of singing birds," while Bacon was raising the lofty fabric of his philosophical speculation, the people itself was waking to a sense of national freedom. Elizabeth saw the forces, political and religious, which she had stubbornly held in check for half a century, pressing on her irresistibly. In spite of the rarity of its assembling, in spite of high words and imprisonment and dextrous management, the Parliament had quietly gained a power, which, at her accession, the Queen could never have dreamed of its possessing. Step by step the Lower House had won the freedom of its members from arrest save by its own permission, the right of punishing and expelling members for crimes committed within its walls, and of determining all matters relating to elections. The more important claim of freedom of speech had brought on from time to time a series of petty conflicts in which Elizabeth generally gave way.—*"History of the English People," by Green, Vol. II., p. 492.*

CHAPTER V

THE STUART RULE

PREVIOUS to the Tudor century the people of England did not greatly trouble themselves with thoughts upon the nature of government. Each class was accustomed to contend for its own interests with little care for the interests of other classes. Early in the reign of Henry VIII. Sir Thomas More wrote his *Utopia*, and this book and its author greatly influenced the mind of the king. A little later the writings of Machiavelli came into England, and it is said these writings encouraged the king and his minister, Thomas Cromwell, to seek to establish an absolute monarchy. In that age it was but natural that statesmen and philosophers should seek to escape from the anarchy and brutality of feudalism, by increasing the power of kings. In France this idea of absolute monarchy was carried to its logical conclusion.

(1) When Elizabeth died, in 1603, James VI. of Scotland became James I., King of Great Britain and Scotland. As an enemy of England, Scotland had long been closely associated with France. Surely the Stuart kings had the French idea of monarchy, and they continued to the end in close alliance with France.

The Stuart kings turned England into a political

debating society, and the debate lasted for a hundred years. Nearly all theories of government that have ever appeared were put forth at some stage of this century of debate. The Stuarts advanced the theory that God's method for maintaining righteousness among men was to choose certain persons to exercise authority. These are divinely set apart to rule. It is made the duty of all others to obey the rulers and to coöperate with them in the fulfillment of their mission. The Stuart theory involved the fusion of Church and State.[1] The king, as head over all, was the fountain of supreme earthly authority. The bishops and priests were his ministers in matters spiritual. Councils, Parliaments, and courts of law were his ministers in matters general. The theory of the Stuarts was logical and consistent, and it seemed quite in harmony with the facts of past history. Great reforms had been effected by power in the strong hand.

(2) At the beginning of the debate there were none to propose a consistent and logical theory in answer to the foreign Stuart kings. The English had a Parliament which was accustomed to vote supplies[2] and to make laws. The opponents of the king in the House of Commons maintained that it was the duty of the king to obey the laws, and to faithfully execute the laws passed by Parliament. Parliaments had been used to depose kings and to introduce families of kings out of the natural order. Often had Parliament been used to destroy the king's ministers. In the stress of

the conflict with the second Stuart king, a House of Commons was used to set up a court to punish a king for high treason. The logic of the Stuart theory of government was met, not by a consistent opposing theory, but by a series of events which made it appear inapplicable. The second Stuart was beheaded, the third was eleven years a vagabond, while England enjoyed an orderly government without a king, and the fourth Stuart was driven from the land, while his family was cut off by law from access to the throne.

(3) The great political debate was at the same time a religious debate. Religious conviction nerved the kings for the conflict. They began as High Church Episcopalians, and they ended as professed Roman Catholics. It was religious conviction, also, that carried the nation to extreme measures against the Stuarts. "England," says Green, "became the people of a book, and that book was the Bible." In the hands of whole-souled and earnest readers, the Bible has ever been an intensely political book. It holds out not the slightest hope of a blessed immortality in a future world to one who does not use his best endeavors to realize a righteous state in this world. Separate from politics, religion degenerates into a feeble sentimentality or into sheer hypocrisy.

(4) Even before the death of Elizabeth, bodies of believers began to be found in England who, in the stress of civil war in the middle of the Stuart century, were prepared to furnish a direct answer to the divine

right theory of the king. Brownists, who later became known as Congregationalists, and Anabaptists repudiated all priestly authority. They fell into methods of church organization, which quite resemble the primitive village State of our German ancestors, where families subdued nature, and learned to farm their land by friendly coöperation, and composed their difficulties in town meeting. These new-church villagers first sought a home among the Dutch, where primitive towns were better preserved. Later they boarded the Mayflower and came to the New World.[3] The early churches in New England may be viewed as a sort of restoration of the primitive village state, transplanted to virgin soil after having received Christian baptism.[4] New England became the home of those most opposed to the Stuart rule in England. Democratic government in the church carried with it the same sort of government in State, because the two were united. Some of the most ardent believers in democracy in the New World went to England to share in the conflict with the king, and they boldly put forward the theory that God's method in governing, leads to the establishment of friendly coöperation among the people, and to the ultimate repudiation of authority in both king and priest.

SUPPLEMENTARY READING

CHAPTER V

The Stuart Rule

[1] **Divine Rights.**—But if the theory of a Divine right of kings was certain to rouse against it all the nobler energies of Puritanism, there was something which roused its nobler and its pettier instincts of resistance alike, in James' second theory of a Divine right of Bishops. Elizabeth's conception of the ecclesiastical supremacy had been a sore stumbling block to her subjects, but Elizabeth at least regarded the supremacy simply as a branch of her ordinary prerogative. Not only were the clergy her subjects, but they were more her subjects than the laity. She treated them, in fact, as her predecessors had treated the Jews. She allowed nobody else to abuse or to rob them; she robbed and abused them to her heart's content. But the theory which James held as to Church and State was as different from that of Elizabeth as the theological bent of his mind was different from her secular temper. His patristic reading had left behind it the belief in a Divine right of bishops as sacred and absolute as the Divine right of kings.—*"Short History of the English People," by Green, p. 473.*

[2] **Nation's Reserve Powers.**—The leaders in the House of Commons knew, as James and Charles did not know, the nation's reserve power of resistance to arbitrary exactions. It was of immense advantage to the Commons that in the contest with the King they appeared at the same time to be the champions of the people against arbitrary exactions.

Against the new theory of divine right the Commons had as a defensive weapon the old habit of asking favors and insisting upon redress of grievances before granting supplies. Under the new issue with the Crown this old habit takes on a new meaning.

From the standpoint of the King, Parliament was simply one of the many agencies in his hand for getting supplies. These agencies were all equally legal and equally righteous. Sovereignty was viewed as a simple thing, and in the last analysis, according to the royal theory, sovereignty rested with the Sovereign. Upon his theory it was the duty of the Commons to vote supplies. If they refused to do this, it became the duty of the King to collect the supplies without the vote of the Commons. If the Commons persisted in refusing necessary taxes, then the House of Commons became obstructive, unconstitutional, and revolutionary. In support of this view the King and his lawyers appealed to history.

The Commons also appealed to history in support of their ancient and undoubted right to vote or withhold supplies. They, too, held to the notion of the unity and simplicity of sovereign power. They had long ago vindicated their right, as against the House of Lords, to control the votes of supply. Now, forced to an issue with the king, they made the further claim that in the matter of appropriations the Commons represented the sovereign power of the nation. Under this theory the king was reduced to a state of a mere petitioner. They would grant him supplies or withhold them as they pleased. They asserted in even louder tones than the court lawyers had done that their view was in accord with the ancient and unchanging Constitution of the English government. In this debate the idea of an ancient and unchanging Constitution was born, and two theories regarding it became prominent. One made the king the predominant power; the other, the nation through the House of Commons. According to the theory of James and Charles these two views of the English Constitution were contradictory and impossible. The events of the first half of the seventeenth century would indicate that this view was correct. Yet it is the mystery of the Constitution of to-day that both of these views have survived, and that they have actually been harmonized with each other.

The lawyers in the House of Commons seemed to see clearly, if modern historians have not, that their strongest argument in this emergency was not found in past history, but in present

politics. From ancient history and from their new theory the Commons found themselves in possession of but a small fragment of sovereign power. From the standpoint of pure logic their position was not enviable; but from the standpoint of contemporary politics it was superb. Here was a foreign and unpopular king who insisted upon a wholly new theory of absolute sovereignty; yet he asked supplies of the House of Commons. By the simple process of forcing the king to concede something, no matter what, to the demands of the Commons, as a condition of the granting of supplies it would be demonstrated that the so-called sovereign was limited, and the germ of sovereignty which the Commons claimed would thenceforth grow, and in course of time the Commons would be practically sovereign in the making of laws and in the determining of policies. It is not necessary to assume that the party of the Commons had any clear vision of the remote results of their contention. They did, however, see clearly the desirability of checking the growth of the divine-right theory by compelling the king to act inconsistently with his theory whenever he asked for supplies.—*"The English Constitution," by Jesse Macy, pp. 269, 270.*

[3] **Compact Signed on Board the Mayflower.**—It was determined to enter into a compact of government which should not only have the binding force of law over all persons disposed to be insubordinate, but which would be, it was thought, of as much virtue under the circumstances in which they were placed as any patent. On the day they entered Cape Cod harbor, therefore, all the men, excepting seven of the servants, entered into and signed this agreement:

"In ye name of God, Amen. We whose names are underwritten, the loyall subjects of our dread soveraigne Lord, King James, by ye grace of God, of Great Britaine, Franc & Ireland kind, defender of ye faith, &c., haveing undertaken, for ye glorie of God, and advancemente of ye Christian faith, and honour of our king & countrie, a voyage to plant ye first colonie in ye Northerne part of Virginia, doe by these presents solemnly & mutualy in ye presence of God, and one of another, covenant & combine our selves togeather into a civill body politick, for our

better ordering & preservation & furtherance of ye ends aforesaid; and by vertue hearof to enacte, constitute, and frame such just & equall lawes, ordinances, acts, constitutions & offices, from time to time, as shall be thought most meete & convenient for ye generall good of ye Colonie, unto which we promise all due submission and obedience. In witnes whereof we have hereunder subscribed our names at Cap-Codd ye 11 of November, in ye year of ye raigne of our soveraigne lord, King James, of England, France & Ireland ye eighteenth, and of Scotland ye fiftie fourth Ano Dom. 1620."—*From Bradford's "History of Plymouth Plantation," recovered in full only about fifty years ago, and published under the editorship of Charles Deane.*

[4] **Principles of the Reformation.**—If we follow the development of the principles of the Reformation in Europe, first on the continent, then in England and Scotland, and finally in America, we for our part shall have no difficulty in admitting that there was a process of evolution in which the whole Western world took part. Anglo-Saxon democracy failed in the seventeenth century in Europe in its struggle against ancient laws and institutions. It began afresh beyond the ocean, in a new society which had been born again. It was there that the movement of the eighteenth century began; New England was the country in which it burst its bonds, and every one of the colonies of the refugees has had its share, large or small, but none the less real, in giving birth to what has become the mighty American democracy.—*"The Rise of Modern Democracy," by Charles Borgeand. Translated by Mrs. Birkbeck Hill.*

CHAPTER VI

THE ADVENT OF DEMOCRACY IN ENGLAND

ACCORDING to the Stuart theory, the State is an agency for imposing the divine will upon the people, through a divinely anointed king supported by consecrated priests. According to the theory of the New England democrats, kings and priests mistake their own for the divine will. The divine will is learned rather through the coöperation of the people, through the common effort to discover right conduct and establish righteous laws. According to the one theory, the State is organized to compel the people to do things they do not wish to do. The other theory teaches that the State enables the people to do more effectively the things the people want done. The Stuarts demanded that all the people should obey the king. The democrats demanded that the king should obey the people. The Tudor monarchs taught lords and bishops to obey the laws; Cromwell's army and the House of Commons gave to the world an object lesson, which will never be forgotten, in support of the doctrine that in England, at least, kings also must obey the laws.

(2) The democratic theory of the State was only one among the many theories, that appeared during the Stuart century. Few people at the time, either in the

old or the new world, were consistent believers in democracy.[1] The English are expert compromisers. They carry no theory to its logical conclusion. After the Great Revolution, in 1688, in which James II. was debarred from the throne, everybody knew that a king could not, under the plea of divine right, impose his will upon the nation, against the will of the two Houses of Parliament. This is all that the long conflict had really settled. None knew who would control the will of the two houses. I have previously stated that the House of Commons, even in the time of Elizabeth, had gained great power and influence, and that it was an important organ of public opinion. The importance of the House immensely increased during the conflict with the Stuarts.

(3) Other organs of public opinion also appeared a few years before the Revolution of 1688. I refer to the great political parties, Whigs and Tories.[2] The Whigs stood for opposition to the theory of the divine right of kings, while the Tories at first supported that theory. Each party appealed to the English for the control of the House of Commons. Some of the Tory leaders united with the Whigs in the enactment of the Great Revolution, yet it is known as a Whig Revolution, because it embodied the Whig theory of parliamentary supremacy.

(4) After the revolution of 1688 the Whigs controlled the two Houses of Parliament, with brief intervals in the time of William and Mary and Anne,

Copyright by Underwood & Underwood

HOUSES OF PARLIAMENT, LONDON, ENGLAND

until the crowning of George III. in 1760. The Tories were friendly to the deposed Stuart family. The first two Georges had to be Whigs, because a Tory rule meant a restoration of the Stuarts. The Whigs never professed to believe in democracy. The leaders believed in government by themselves, as holders of the chief offices of State. So long as they could hold the offices and control Parliament they were content.

(5) During the time when the monarchs were Whig by necessity, the Whigs perfected a method for the continuous control of Parliament, which is known as the Cabinet System of Government. Under the leadership of a Prime Minister, the chief officers of State, who were at the same time members of one or the other of the two Houses, made themselves, as a body, responsible for the entire conduct of government, both executive and legislative. It was a fundamental Whig doctrine that Parliament is supreme and that the House of Commons is the more important branch. The Whig Cabinet secured the coöperation of the king because of the threatened restoration of the Stuart line. They controlled the Commons through persuasion, through bribery,[3] and the spoils of office. To control the Lords there was the additional method of creating new Peers. The Cabinet met apart from the king, determined its policy and then secured the sanction of the king, and the two Houses.

(6) When George III. became king, there was no longer danger of a return of the Stuarts. The king

was a Tory. The method of governing which had been perfected by Whigs passed into the hands of Tories, and, with a few brief intervals, the Whigs were kept out of office from 1760 till 1830. During this period, the king controlled the patronage, and administered the corruption funds. He could not only create new Lords, he could create new boroughs as well, for the election of members to the Commons. Few citizens had a right to vote. Parliament was no longer an independent power, but was under the complete control of King and Cabinet.[4]

(7) After having been seventy years out of office; after free governments had been established in America and Switzerland; after the stirring events of the French Revolution and the Napoleonic wars; the Whigs in England determined to make an appeal to the Democracy of England to wrest the power of the control of Parliament from the monarch, and hand it over to a large uncorrupted voting constituency. By the Act of 1832 the corrupt boroughs were destroyed, and the franchise extended. In 1834, an act for the government of cities on democratic principles was adopted. An act removing the spoils of office from influence over elections, was passed in 1858. The franchise was again extended in 1868, and in 1885. Later acts have extended democratic rule over counties and parishes. In these various ways England is coming to be a thoroughly democratic State.

SUPPLEMENTARY READING

CHAPTER VI

The Advent of Democracy

[1] **Whig Writers of the Period.**—The Whig writers and pamphleteers of the reign of William, founding their arguments upon the principles of the revolution, often advanced propositions which exposed them to the taunts of republicanism from their opponents; but nothing could be more harmless than their writings. It was their aim to uphold the principles, and defend the conduct of their own party — to advocate measures which they favored — and to expose the reactionary principles of their Tory rivals. Their controversies were nothing more than the contentions of rival parliamentary parties, seeking for power and advancement under the monarchy; and to reproach the Whig writers of that day with democratic sentiments can only provoke a smile.

Whatever the principles of the revolution, and of the Whig party, who were its representatives and exponents, it is certain that democracy formed no part of the politics of England. The most advanced opinions were entirely consistent with all the institutions of a limited monarchy. And how far did the principles of freedom, contended for by the most liberal of the political parties, transcend their practice?—*"Democracy in Europe," by Sir Thomas Erskine May, Vol. II., p. 461.*

[2] **New Terms.**—In that year our tongue was enriched with two words, Mob and Sham, remarkable memorials of a season of tumult and imposture. Opponents of the court were called Birminghams, petitioners, and exclusionists. Those who took the king's side were Anti-Birminghams, abhorrers, and tantivies. These appellations soon became obsolete; but at this time were first heard two nicknames which, though originally given in insult, were soon assumed with pride, which are still in daily use, which

have spread as widely as the English race, and which will last as long as the English literature. It is a curious circumstance that one of these nicknames was of Scotch, and the other of Irish origin. Both in Scotland and in Ireland misgovernment had called into existence bands of desperate men whose ferocity was heightened by religious enthusiasm. In Scotland some of the persecuted Covenanters, driven mad by oppression, had lately murdered the primate, had taken arms against the government, had obtained some advantages against the king's forces, and had not been put down till Monmouth, at the head of some troops from England, had routed them at Bothwell Bridge. These zealots were most numerous among the rustics of the western lowlands, who were vulgarly called Whigs. Thus the appellation of Whig was fastened on the Presbyterian zealots of Scotland, and was transferred to those English politicians who showed a disposition to oppose the court, and to treat Protestant nonconformists with indulgence. The bogs of Ireland, on the other hand, afforded a refuge to Popish outlaws, much resembling those afterwards known as Whiteboys. These men were then called Tories. The name of Tory was therefore given to Englishmen who refused to concur in excluding a Roman Catholic prince from the throne.

The rage of the hostile factions would have been sufficiently violent if it had been left to itself. But it was studiously exasperated by the common enemy of both. Lewis still continued to bribe and flatter both the court and the opposition. He exhorted Charles to be firm; he exhorted James to raise a civil war in Scotland; he exhorted the Whigs not to flinch, and to rely with confidence on the protection of France.

Through all this agitation a discerning eye might have perceived that the public opinion was gradually changing. The persecution of the Roman Catholics went on; but convictions were no longer matters of course. A new brood of false witnesses, among whom a villain named Dangerfield was the most conspicuous, infested the courts; but the stories of these men, though better constructed than that of Oates, found less credit. Juries were no longer so easy of belief as during the panic which

had followed the murder of Godfrey; and judges, who, while the popular frenzy was at the height, had been its most obsequious instruments, now ventured to express some part of what they had from the first thought.

At length, in October, 1680, the Parliament met. The Whigs had so great a majority in the Commons that the Exclusion Bill went through all its stages there without difficulty. The King scarcely knew on what members of his own cabinet he could reckon. Hyde had been true to his Tory opinions, and had steadily supported the cause of hereditary monarchy. But Godolphin, anxious for quiet, and believing that quiet could be restored only by concessions, wished the bill to pass. Sunderland, ever false, and ever short-sighted, unable to discern the signs of approaching reaction, and anxious to conciliate the party which he believed to be irresistible, determined to vote against the court. The Duchess of Portsmouth implored her loyal lover not to rush headlong to destruction. If there were any point on which he had a scruple of conscience or of honor, it was the question of the succession; but during some days it seemed that he would submit. He wavered, asked what sum the Commons would give him if he yielded, and suffered a negotiation to be opened with the leading Whigs. But a deep mutual distrust which had been many years growing, and which had been carefully nursed by the arts of France, made a treaty impossible. Neither side would place confidence in the other. The whole nation now looked with breathless anxiety to the House of Lords. The assemblage of peers was large. The King himself was present. The debate was long, earnest, and occasionally furious.—"*History of England," by Macaulay, Vol. I., pp. 238, 239.*

[3] **Political Corruption.**—Therefore the Whigs, even before Walpole secured power, had determined that the electors should not be left to themselves. In many boroughs the right of voting was confined to the corporation; and as large numbers of these boroughs were mere villages, or even hamlets, the members of their corporations were poor men — easily accessible to arguments addressed to their pockets. The wealthiest land-owner in the neighborhood was usually a Whig, who would use his influ-

ence and his purse in securing the election of his own nominee. Electors found that, if they voted for the Whig candidate, their lives would be made easy to them, whilst if they voted for the Tory candidate they would be much worse off. In the House of Commons itself the same system of corruption was pursued. What amount of ready money Walpole paid to his supporters has been disputed, and it was certainly much less than has usually been supposed, but he had in his gift all the offices held under the crown, a large number of which were sinecures with large pay and no duties. Needy members discovered that if they wanted money they must support Walpole, and ambitious members discovered that if they wanted office they could only obtain it by supporting Walpole. It is therefore not surprising that all the rising talent in the country declared itself Whig.—*"Students' History of England," by Gardiner, Vol. III., p. 714.*

[4] **Economic Reforms.**—Early in the following year numerous public meetings were held, associations formed, and petitions presented in favor of economic reforms, and complaining of the undue influence of the Crown, and of the patronage and corruption by which it was maintained. It was for the redress of these grievances that Mr. Burke offered his celebrated scheme of economical reform. He confessed that the main object of this scheme was "the reduction of that corrupt influence which is itself the perennial spring of all prodigality and of all disorder; which loads us more than millions of debt; which takes away vigor from our arms, wisdom from our councils, and every shadow of authority and credit from the most venerable parts of our constitution."

On April 6, Mr. Dunning moved resolutions, in a committee of the whole House, founded upon these petitions. The first, which is memorable in political history, affirmed "that the influence of the Crown has increased, is increasing, and ought to be diminished."—*"Constitutional History of England," by May, Vol. I., p. 54.*

QUESTIONS FOR REVIEW. PART III

1. What are some of the striking differences between England and Switzerland? Some of the similarities? May a monarachy be also a democracy? When may the Queen refuse to follow the advice of the Cabinet? How does the English nation indicate its approval of a given measure? When may the Lords refuse to pass a Cabinet bill? In what did English democracy originate? What are the powers of the English king?

2. What is meant by "balance of power" in a nation? What are the sources of power and influence in the English state? Why did William I. seek to preserve the local institutions of the English? What are some of the differences between the feudal system in France and in England? What was a common attitude of the lower ranks in nobility and clergy toward the higher ranks? The difference between serfs in England and France? How did English kings promote democracy? What induced the barons to seek to win the support of the English people?

3. What are some of the striking differences between European and Asiatic sentiment, toward rulers? Why does Magna Charta belong to all lands? How are abuses corrected in a despotism? How in a progressive state? How was the Charter obtained? What was its

object? Did the barons expect John to obey the Charter? Was it obeyed? What important lessons does the Charter teach? How did the Magna Charta provide for the control of John by the Barons? What rights did the people get?

4. Did the Charter change the old balance between the classes? How did the House of Commons originate? Is the House of Lords older than the Commons? What were the causes of the Wars of the Roses? What effect did the Wars have upon the old balance of power? Upon whom did Tudor rulers rely for support? Against whom was Tudor rule especially directed? Before the Tudor period, abuses were corrected how? After the Tudors, how? Give some of the effects of the Reformation upon English politics. What was Elizabeth's great mission? How did the House of Commons come to be an agency for expressing the national will? What was the condition of Parliament under Henry VIII.?

5. What two writers influenced the policy of Henry VIII.? What is meant by the "Divine Right Theory" of government? How did the English answer the theory? How was religion involved in the Stuart debate? Who answered the Stuart theory by a democratic theory? How did the Commons force the king to recognize their rights? What were the two theories as to this method? What is the real significance of the "Mayflower Compact"?

6. What are the chief differences between the

Stuart, and the democratic theories of government? What was really settled by the Revolution of 1688? How did political parties originate? What were the chief Whig doctrines? Chief Tory doctrines? What enabled the Whigs to control the offices from 1688 to 1760? What enabled the Tories to control the offices from 1760 to 1830? How did the Cabinet system originate? What methods were employed to control the Houses of Parliament? How has the control of Parliament been transferred from King to People? What monarchs were Whig from necessity? Which party would a monarch naturally prefer? Did the Whig machine (the Cabinet) in the hands of a Tory king, tend to increase the power of the Crown? What great events prepared the English Whigs to appeal to the democracy of England? How did the ideals of democracy suffer?

SUBJECTS FOR SPECIAL STUDY

1. Similarities between England and Switzerland.

2. Liberties of the English people favored by the conflict between classes.

3. Political results of Magna Charta.

4. Results of the Wars of the Roses, and the accession of the house of Tudor.

5. The house of Stuart and the "Divine Right of Kings."

6. Formation of the two great political parties—Whig and Tory.

PART IV

Democracy in the New World

CHAPTER I

THE VACANT CONTINENT

JOHN STUART MILL says that in matters political, little things not only have little influence, but they often have no influence at all. Poets and historians have cheated the American citizen out of the most important lesson in his history by giving undue attention to the American Indian. The thing above all others that the student of politics needs to appreciate is, that the continent north of Mexico was practically vacant when the white man came.[1] There are probably as many Indians now in this land as there have been at any time since the continent was discovered. Remove now all the white, and the black, and the yellow men, and the continent would again be vacant. The red men that would remain may be counted as one of the little things that may be ignored.[2] The poets have peopled the continent with imaginary Indians, and then they have destroyed them by imaginary wars. When Benjamin Franklin told the ministers of George III. that, rather than submit to their demands, he would take his gun and his fishing-rod and cross the Alle-

ghanies, he did but call attention to the one fact of tremendous importance in the settlement of North America.

(1) North America has been occupied by people who were running away from tyranny and want. In coming to the New World, not only did they strive to escape tyranny and want, they actually did escape from both. For well nigh three hundred years, there has been room for all who would come. Only a few years ago a newly arrived Russian could make his mark upon a hundred and sixty acres of rich prairie soil, and without one penny he could borrow enough upon the land which the government gave him to furnish all needed supplies, until the products from the land would support him. Under such conditions there can be no serious industrial problems. For more than two centuries our vacant land has solved, not only our industrial problems, but our chief political and social problems, as well. Tramps and the unemployed became permanent classes only after there were no longer valuable lands to give away.

In former lessons we have seen that the few miles of water separating England from the Continent made a great difference between English and Continental history. The English were in a measure left to themselves, and worked out a separate destiny. The great ocean separated America from the Old World. Crossing the ocean has been, until recent times, a formidable task. For this and other reasons, American settlers

were left to work out their own destiny. There was not only the vacant Continent, there was isolation from the Old World.

(2) In the case of the Forest Cantons of Switzerland too, the fact of isolation, or separation, had a great deal of influence in the preservation of the primitive institutions and customs so essential to the formation of the Swiss democracy. It was of immense importance to the development of liberty that the villagers in the Forest Cantons were for a few generations left to themselves. It was of immense importance that there were perpetual natural barriers, in the form of mountain, lake, and ice. Yet the Swiss were so near to the surrounding nations, the barriers were so feeble, that their institutions were constantly threatened. The life of Switzerland was the life of Europe. The little republic has expressed and preserved the freest and the best of that life. England, too, while separate, was also closely united to the rest of Europe. The English themselves came to the island as conquerors in the fifth and sixth centuries. Later, the Danes conquered the country. Last of all came the Norman conquest, in 1066. At all times the English had powerful enemies, in the Islands or on the Continent, who threatened their existence as an independent nation.

How different has been the history of America. Americans left the strife of the Old World behind. There were no inhabitants in the New World to fur-

nish serious opposition. All the Indian wars, and all the European wars, that affected the Colonies may be reduced to the space of a very few months; and they involved but a small fraction of the people. It has been the great work of Americans to spread themselves over a vacant continent. Nothing at all like this has ever occurred before.[8]

(3) Who were the first Americans? They were English, Dutch, French, and Scandinavians, from Europe. They were the most enlightened people in the world — people who carried with them the ideas and institutions which were the result of a thousand years of enlightenment. Never before have such peoples had such unlimited opportunity for spreading themselves. In the Old World, tribe has pressed upon tribe, and nation upon nation. In the New World, the experience, the wealth, and the tools of the most civilized nations of the earth have been applied to the simple task of conquering nature. American history has been unique and exceptional. To conquer nature is not a formidable task where the land is fertile and easily accessible, where there are no wild beasts or poisonous reptiles or insects which endanger the life of man; where there is no noisome pestilence; where natural resources are boundless. In the case of North America there has been the peculiar concurrence of favorable circumstances — a country most easily conquered, occupied by a people most highly equipped. The American who does not rightly read this lesson will read

awry many another lesson. It is important that the American should ever bear in mind that it is because his ancestors came to such a vacant continent that there has been three hundred years of peculiar and exceptional experience. This exceptional experience is now coming to an end. Now, for the first time, Americans are called upon to face the old problems of the Old World.

SUPPLEMENTARY READING

CHAPTER I

The Vacant Continent

[1] **The Mobilian Family of Tribes.**— Such is a synopsis of the American nations east of the Mississippi. It is not easy to estimate their probable numbers at the period of their discovery. Many of them — the Narragansetts, the Illinois — boasted of the superior strength of their former condition; and, from wonder, from fear, from the ambition of exciting surprise, early travelers often repeated the exaggerations of savage vanity.

The Hurons of Upper Canada were thought to number many more than thirty thousand, perhaps even fifty thousand, souls; yet, according to the more exact enumeration of 1639, they could not have exceeded ten thousand. In the heart of a wilderness, a few cabins seemed like a city; and to the pilgrim, who had walked for weeks without meeting a human being, a territory would appear densely peopled, where, in every few days, a wigwam could be encountered.

Vermont, and northwestern Massachusetts, and much of New Hampshire, were solitudes; Ohio, a part of Indiana, the largest part of Michigan, remained open to Indian emigration, long after America began to be colonized by Europeans. From the portage between the Fox and the Wisconsin, to the Des Moines, Marquette saw neither the countenance nor the footstep of man.

In Illinois, so friendly to the habits of savage life, the Franciscan Zenobe Mambré, whose journal is preserved by Le Clercq, describes the "only large village" as containing seven or eight thousand souls; Father Rasle imagined he had seen in one place twelve hundred fires, kindled for more than two thousand families; other missionaries who made their abode there describe their appalling journeys through absolute solitudes; they repre-

sent their vocation as a chase after a savage that was scarce ever to be found; and they could gather hardly five, or even three, villages in the whole region.

Kentucky, after the expulsion of the Shawnees, remained the wide park of the Cherokees. The banished tribe easily fled up the valley of the Cumberland River, to find a vacant wilderness in the highlands of Carolina; and a part of them for years roved to and fro in wilderness west of the Cherokees. On early maps, the low country from the Mobile to Florida is marked vacant.

The oldest reports from Georgia exult in the entire absence of Indians from the vicinity of Savannah and will not admit that there were more than a few within four hundred miles. There are hearsay and vague accounts of Indian war parties composed of many hundreds: those who wrote from knowledge furnish the means of comparison and correction. The whole population of the Five Nations could not have varied much from ten thousand; and their warriors strolled as conquerors from Hudson's Bay to Carolina,—from the Kennebec to the Tennessee.

Very great uncertainty must, indeed, attend any estimate of the original number of Indians east of the Mississippi and south of the St. Lawrence and the chain of lakes. The diminution of their population is far less than is usually supposed: they have been exiled, but not exterminated. The use of iron,. of gunpowder, of horses, has given to the savage dominion over the beasts of the forest, and new power over nature. The Cherokee and Mobilian families of nations are more numerous now than ever.

We shall approach, and perhaps exceed, a just estimate of their numbers two hundred years ago, if to the various tribes of the Algonquin race we allow about ninety thousand; of the Eastern Sioux, less than three thousand; of the Iroquois, including their southern kindred, about seventeen thousand; of the Catawbas, three thousand; of the Cherokees, twelve thousand; of the Mobilian confederacies and tribes,—that is, of the Chickasas, Choctas, and Muskhogees,—fifty thousand; of the Uchees, one

thousand; of the Natchez, four thousand; — in all, it may be, not far from one hundred and eighty thousand souls.

The study of the structure of the dialects of the red men sheds light on the inquiry into their condition. Language is their oldest monument, and the record and image of their experience. No savage horde has been caught with it in a state of chaos, or as if just emerging from the rudeness of undistinguishable sounds. No American language bears marks of being an arbitrary aggregation of separate parts; but each is possessed of an entire organization, having unity of character, and controlled by exact rules. Each appears, not as a slow formation by painful processes of invention, but as a perfect whole, springing directly from the powers of man. A savage physiognomy is imprinted on the dialect of the dweller in the wilderness; but each dialect is still not only free from confusion, but is almost absolutely free from irregularities, and is pervaded and governed by undeviating laws.

As the bee builds his cells regularly, yet without the recognition of the rules of geometry, so the unreflecting savage, in the use of words, had rule, and method, and completeness. His speech, like everything else, underwent change; but human pride errs in believing that the art of cultivated man was needed to resolve it into its elements, and give to it new forms, before it could fulfill its office. Each American language was competent, of itself, without improvement from scholars, to exemplify every rule of the logician, and give utterance to every passion. Each dialect that has been analyzed has been found to be rich in derivatives and compounds, in combinations and forms. As certain as every plant which draws juices from the earth has roots and sap vessels, bark and leaves, so certainly each language has its complete organization.—*"History of the United States," by Bancroft, Vol. I., pp. 251-255.*

[2] **The First Americans.**— It happened to the writer more than once, during the late civil war, to sail up some great Southern river that was to all appearance unfurrowed by the keel of man. If it was not the entrance to a newly discovered conti-

nent, it might as well have been. No lighthouse threw its hospitable gleam across the dangerous bar, no floating buoys marked the intricacies of the channel; the lights had been extinguished, the buoys removed, and the whole coast seemed to have gone back hundreds of years in time, reverting to its primeval and unexplored condition.

There was commonly no sound except the light plash of waves or the ominous roll of heavy surf. Once only, I remember, when at anchor in a dense fog off St. Simon's Island, in Georgia, I heard a low continuous noise from the unseen distance, more wild and desolate than anything else in my memory can parallel. It came from within the vast girdle of mist, and seemed as if it might be the cry of lost souls out of some Inferno of Dante; yet it was but the sound of innumerable sea-fowl at the entrance of the outer bay. Amid such experiences I was for the first time enabled to picture to myself the American Continent as its first European visitor saw it.—*"History of the United States," by Higginson, p. 1.*

[3] **Sectional Life.**—The life of a nation, like that of an individual, depends mainly on two factors; the moral and mental make-up of the nation or the individual, and the opportunities of improvement which are placed within reach. On the one hand, a weak and indolent race, as for example the Spanish-American, has made slight use of great natural resources; on the other hand, a strong and energetic race, as the Danish, has accomplished little in countries like Iceland and Greenland. In the territory now occupied by the American nation, a strong people found opportunities for development such as no other country of equal size possesses.—*"Channing's Student's History of the United States," p. 1.*

CHAPTER II

LOCAL GOVERNMENT IN THE NEW WORLD

BOTH in England and in Switzerland the primitive local institutions of German ancestors played an important part in the development of democracy. In Switzerland, local customs and habits prevented the formation of any effective general government until the advent of democracy in the present century. And even now a large share in the government is in the hands of the separate Cantons. In England, kings carefully preserved the local governments in towns, parishes, and counties, as a means of protection against their powerful subjects. It was by centuries of education and training in the management of their own affairs in counties, cities, and towns, and in workingmen's guilds, that a democracy was finally created to which appeal could be made, in the settlement of the general affairs of state. Local governments have been the chief schools of training for democracy.

(1) The Vacant Continent became a favorite place for starting anew the primitive state.[1] At first, each town in New England had nearly all the essential attributes of an independent State. Among our heathen ancestors, the primitive State was chiefly occupied in learning the arts of farming, and the care of

domestic animals. In New England, the chief occupation of the primitive State was the support of the Church. The town was at the same time a Church. And after the care of the Church, the most important business of the town was the education of youth.

Like the primitive town, the New England town also administered common lands and provided for the care of domestic animals. The support of Church, and School, required important measures of taxation. The New Englander was a highly civilized man, and the town taxed itself not only for the support of Church and School, but for the making of roads, the care of the poor, for defense, and for many other purposes.

At first the town was an all-sufficient government. But a town is too small an area to support a gallows, a jail, and a court-house. The town of Plymouth did indeed hang one of its citizens the second year after landing. But for the punishment of serious crime, a higher court was demanded just as early as the support of such a court was possible. As the town was built up around the Church and the School, so the County was formed around the Court-House and the jail. But the county was merely supplemental. It did not take over work previously done by the towns. In New England, therefore, the business of the county was exceedingly limited. The towns were democratic in form, and they retained nearly all the business of local government.

(2) In the various American colonies there was

much variety in the forms, and in the importance, of local governments. Only in New England, where the support of the Church was the chief function of the new town, did the town system reach its highest development. In New York, where there was a mingling of Dutch and English settlers, the town became an important local government, but the county was a government of yet greater consequence. The democratic town meeting was retained, but a large part of the business which in New England remained in the hands of the towns, was in New York taken in hand by the counties. The New York county also drew to itself a part of the business, which was in other States given to the State legislatures. A county legislative body, composed of the chief administrative officers from each town, not only provides for the holding of courts, as do county officers in New England, but it has a share in nearly all local government in the county.

(3) In Pennsylvania there originated another distinct type of local government. The county and the township were kept separate, and the business divided between the two, the larger share going to the county. In Virginia, and the Southern States, a different type still appears. The town, or township, government was omitted entirely, and the county assumed the whole control of local matters. The local governments set up by the early settlers have continued to the present day. As the settlers moved to the West, they carried with them the local institutions of the East.

(4) These local institutions, transplanted from the Old World, are the most enduring of our institutions.[2] As they were in the beginning, so, with slight modifications, are they today. Outside of New England, where School and Church were not so closely identified with the government, there was little governing to do. It is only in recent years that education by the State has become universal. Each colony was in the beginning simply a local government, taking the form of town or county, as the case may be. As neighboring settlements were made, they took the form of the original. Only gradually were general governments set up, exercising authority over the separate settlements. The colonial legislature was composed of representatives from these separate settlements. The several towns or counties kept their original powers in their own hands. The general colonial governments were merely supplemental. Thus, in each of the colonies there was, from the time that two separate settlements were united under a general colonial government, a Federal system of government. The town or the county retained many of the powers of an original State, while they became united or federated together under a more general government. It was this long experience of the separate colonies which prepared the people, when the time for separation from the mother country had arrived, to form a yet more general government, to attend to matters not easily managed by the individual States.

SUPPLEMENTARY READING

CHAPTER II

Local Government in the New World

[1] **The Township.**—But it was in its political or constitutional aspect that the township occupied a unique position. The ancient *tunscipe* was, no doubt, as we are informed by the highest authority, the constitutional unit of the Saxon State. But neither the tunscipe nor its successor, the parish, was ordinarily brought into direct contact with the central power. It was overshadowed by the higher organization of the county and the hundred Knights of the Shire, and not town deputies, took their seats in the House of Commons; and it was the sheriff and the constable who accounted for the taxes in the exchequer.

In New England, on the other hand, the town was the political atom in a most vital sense. Here the hundred never made its appearance; and when the county was instituted — in some instances many years after the first settlements were planted — the towns were not subordinated to it politically. The shire, as we shall see, discharged administrative functions of no little importance.—*"Local Constitutional History of the United States," by George E. Howard, Vol. I., p. 59.*

The Colony of Virginia.—The political development of the southern colonies, like their industrial and social development, presented a strong contrast to that of New England commonwealths. The industrial and social character of a community is sure, in spite of constitutional forms, to draw the political character with it. The New England colonies were practical republics, owing a nominal allegiance and paying occasional homage to a monarchy on the other side of the Atlantic. Virginia, after some fluctuations between chartered self-government and vice-regal rule, became a colonial monarchy after the

English pattern, with a governor who was the delegate of the king and a little image of royal majesty, a council, nominated by the governor, which faintly represented the House of Lords, and a representative assembly which stood in the place of the House of Commons. A governor wielded more personal power than was left to the king at home, and exercised his veto freely when that of the king had been virtually resigned. He also exercised freely his military powers and his powers of appointment. The assembly, however, retained the power of the purse. The suffrage was at one time general; afterwards it was limited to property. But nominal freedom or limitation mattered little, since power was really in the hands of the planters, on whom most of the poor whites were dependent. The planters of each shire administered local government and justice in conclaves like the English quarter sessions, and with more than the authority of the English squire. In oligarchical Virginia, taxation took the form of a poll tax, whereas in republican New England people were taxed according to their means. The oligarchs were not the more inclined to submit to political slavery because they owned slaves. They were tenacious of their own constitutional rights as Englishmen. These they maintained proudly against the governor, as the Barons had maintained them against the English king, and so far they were in political training for the revolution.— From *"The United States," by Goldwin Smith, pp. 41-46.*

[2] **Local Government.**— The first New England settlers were puritans in religion, and sometimes inclined to republicanism in politics. They were largely townsfolk, accustomed to municipal life and to vestry meetings. They planted their tiny communities along the seashore and the banks of rivers, enclosing them with stockades for protection against the warlike Indians. Each was obliged to be self-sufficing, because divided by rocks and woods from the others. Each had its common pasture, on which the inhabitants turned out their cattle, and which officers were elected to manage. Each was a religious as well as a civil body politic, gathered round the church as its center; and the equality which prevailed in the congregation prevailed also in

civil affairs, the whole community meeting under a president or moderator to discuss affairs of common interest.

Each such settlement was called a Town or Township, and was in fact a miniature commonwealth, exercising a practical sovereignty over the property and persons of its members — for there was as yet no State, and the distant home government scarcely cared to interfere — but exercising it on thoroughly democratic principles. Its center was a group of dwellings, often surrounded by a fence or wall, but it included a rural area of several square miles, over which farmhouses and clusters of houses began to spring up when the Indians retired. The name "town" covered the whole of this area, which was never too large for all the inhabitants to come together to a central place of meeting.

This town organization remained strong and close, the colonists being men of narrow means, and held together in each settlement by the needs of defense. And though presently the towns became aggregated into counties, and the legislature and governor, first of the whole colony, and, after 1776, of the State, began to exert their superior authority, the towns (which, be it remembered, remained rural communities, making up the whole area of the State) held their ground, and are to this day the true units of political life in New England. The solid foundation of that well-compacted structure of self-government which European philosophers have admired, and the new States of the West have sought to reproduce.— *"The American Commonwealth," by James Bryce, pp. 561, 562.*

CHAPTER III

THE FEDERAL SYSTEM IN AMERICA AND EUROPE

WHY did the same or similar local institutions result in Switzerland and America in a federal, or decentralized, system of government, and in England in a centralized government?[1] In both Switzerland and America, the people were left to themselves. They were either so far away or so poor that it was not profitable to rob them or tyrannize over them. The people themselves held on to their local institutions against all who sought to rule them. The feudal system was itself a decentralized form of government. The Swiss did not take kindly to lords, and while the lords held sway in the surrounding States, the kings were not strong enough to oppress the Swiss. When the kings became strong enough they could not agree among themselves as to who should have Switzerland. Thus at all times, in one way or in another, the Cantons of Switzerland, like the Colonies in America, were left to the management of their own affairs. The Cantons could be united into no effective general government until after the French Revolution, when the spirit of democracy possessed the minds of the people, and a general government was formed which the people approved. The Canton in Switzerland corresponds

Copyright by Underwood & Underwood

CHAMBER OF DEPUTIES, PARIS, FRANCE

to the State in America. A federal government was the only sort possible for Switzerland. The people would not surrender the government of their Cantons.

(1) It took more than a thousand years to train the Cantons for their democratic mission, while the American Colonies reached a corresponding position in less than two hundred years. But the people who came to America were already educated. Many of them had very decided convictions upon many matters affecting Church and State. Persecuted Puritans settled New England. Persecuted Quakers found a home in Pennsylvania. Persecuted Catholics found a place for liberty in Maryland. Huguenots, driven from France, were scattered through the Colonies. Liberty was in the very air of the New World. Cavaliers who in England professed to believe in the divine right of kings, in Virginia believed and practiced local self-government. The Church of England, in Virginia, would have no bishop to rule over the parishes. There was a sentimental regard for the Stuart family, manifested at the time of the beheading of Charles I., but the Virginians were better pleased with the rule of the Commonwealth. The rule of the restored Stuarts represented by Berkeley, led to rebellion in Virginia twelve years earlier than the rebellion arose which drove James II. out of England.

(2) The significant fact about the experience of the Colonies was that, for the most part, they were neglected and left to themselves. The few years during

which they were subjected to the rule of tyrannical governors served only to bind them more firmly to their local institutions. Each colony became attached to its own legislative assembly as a means of defending its liberties. There is a common belief that the Colonists wanted to be represented in the British Parliament.[2] Nothing can be farther from the truth. They did indeed object to being taxed by a legislature in which they were not represented, and individuals expressed a willingness to be represented in Parliament. But each Colony wanted to be taxed only by its own legislature. This was the only Parliament in which the Colonists wished to be represented.[3] Even after the separation from England, several years of bitter experience were necessary before the thirteen States would suffer themselves to be taxed, even by a General Congress of their own construction. In the formation of the general government, the States would not surrender local independence. In America, as in Switzerland, the federal system alone was possible.

(3) In England the case is different. Here the people were never left to themselves in the management of their local affairs. There was a very close relation between the king's government and the local governments. The local institutions were kept alive and in working order, because kings, and lords, and bishops, were contending among themselves for the place of supeme power. The central government protected the local governments from falling entirely into the hands

of local tyrants. The people have for centuries been trained to look to king, or Council, or Parliament, or Cabinet, or some central authority, for the protection of their local liberties. The result has been a centralization of authority. The people lost the feeling of local independence, and the efficiency of local government became greatly impaired. Yet, no sooner did democracy begin to control the action of Cabinet and Parliament, than a movement was commenced to organize local government on democratic principles. Within three years of the passage of the Reform Act of 1832 provision was made for the government of cities, and for caring for the poor in the country by locally elected boards. Along with the more recent extensions of the franchise there have been agitations for home rule in Ireland, in Scotland, and in Wales, and recent acts of Parliament provide for the government of counties, cities, and parishes by councils chosen by the people. Thus the government of England is being decentralized by various acts of Parliament.

(4) In the United Kingdom of Great Britain and Ireland, the government is centralized. Over these countries, Parliament exercises all power. Parliament also controls the government of India. But Canada is a self-governing colony, having only a nominal subordination to British rule. The Canadians have a federal system modeled in part upon that of the United States. There are provinces with legislatures of their own corresponding to our States, and the Dominion govern-

ment attends to matters of more general interest, after the manner of our government at Washington. In Australia and the adjacent islands are a number of self-governing colonies, and these are now engaged in establishing a government of the united colonies of Australia. We may expect that a similar form of government will be worked out in the British possessions of South Africa. If, as some English statesmen propose, there should be formed an Imperial Parliament composed of representatives from every part of the Empire, and if there should be separate parliaments for England, Wales, Scotland, and Ireland, and if the people of India and other alien races in the British possessions, should be trained to the management of their own local affairs by legislatures of their own, then the entire British Empire would be federal in its form of government, and democratic in its principle.

Already the New World has this form of government. The nineteen Republics of America south of the United States have copied our Constitution and are gradually learning to govern themselves in accord with its principles, while the Chinese Republic, the latest among its class, is also to a considerable degree formed on American lines.

SUPPLEMENTARY READING

CHAPTER III

The Federal System in America and Europe

[1] **Distinguishing Marks of the Federal State.**—The federal State has, as contrasted with a confederation, these distinguishing features: (*a*) A permanent surrender on the part of the constituent communities of their right to act independently of each other in matters which touch the common interest, and the consequent fusion of these communities into what is practically a single State. As regards other States, they have merged their individuality into one national whole: the lines which separate them are none of them on the outside, but all on the inside of the new organism. (*b*) The federal State possesses a special body of federal law, a special federal jurisprudence in which is expressed the national authority of the compound State.

This is not a law agreed to by the constituent communities: as regards the federal law there are no constituent communnities: it is the spoken will of the new community, the Union. (*c*) There results a new conception of sovereignty. There exists in the federal State no completely sovereign body, and the functions of sovereignty are parcelled out among authorities, national and local. In certain spheres of State action, the authorities of the Union are entitled to speak the common will, to utter laws which are the supreme law of the land; in other spheres of State action, the constituent communities still act with the full autonomy of completely independent States. The one set of authorities is no more sovereign than the other: the attributes of sovereignty are, so to say, "in commisison."—"*The State,*" *by Woodrow Wilson, pp. 587, 588.*

[2] **Examination by the Commons.**—Question: How, then, can they think they have a right to levy money for the crown, or for any other local purposes?

Answer: They understand that clause to relate to subjects only within the realm; that no money can be levied on them for the crown, but by consent of Parliament.

The colonies are not supposed to be within the realm; they have assemblies of their own, which are their parliaments, and they are, in that respect, in the same situation with Ireland.

They think the Parliament of Great Britain cannot properly give that consent, until it has representatives from America, for the Petition of Right expressly says: It is to be by common consent in Parliament; and the people of America have no representatives in Parliament to make a part of that common consent. —*"Life of Benjamin Franklin," Edited by John Bigelow, p. 499.*

[3] **Representation in Parliament.**—Another topic nearly allied to this, occupied public attention at the same time. It became a question, whether all difficulties might not be adjusted, and a permanent union be established between the two countries, by admitting representatives in Parliament from the colonies. Politicians invented theories and suggested plans. Dr. Franklin thought that such a representation, on fair and equal terms, afforded the only basis of a union which could be expected to endure. But the proposal must first come from England; he was persuaded this would never be done, and he hoped little from the project.

"The time has been," said he, in a letter to Lord Kames, "when the colonies might have been pleased with it; they are now *indifferent* about it; and, if it is much longer delayed, they too will *refuse* it. But the pride of this people cannot bear the thought of it, and therefore it will be delayed. Every man in England seems to consider himself as a piece of a sovereign over America; seems to jostle himself into the throne with the King, and talks of *our subjects in the colonies.* The Parliament cannot well, and wisely, make laws suited to the colonies, without being properly and truly informed of their circumstances, abilities, temper, etc. This it cannot be, without representatives from thence; and yet it is fond of this power, and averse to the only means of acquiring the necessary knowledge for exercising it; which is desiring to be *omnipotent,* without being *omniscient.*" —*"Life of Benjamin Franklin," by Jared Sparks, pp. 308, 309.*

Copyright by Underwood & Underwood

PARLIAMENT BUILDINGS, CHRISTIANIA, NORWAY

Where women have full suffrage and are active in public affairs

CHAPTER IV

THE HOLY ALLIANCE AND DEMOCRACY

ONE object of these lessons is to give a clear idea of the nature of the State. In former lessons there are brief outlines of the origin of European states, and a more detailed account of the origin of three democratic states. Incidentally, frequent allusions have been made to monarchs and aristocratic classes. There have also been various references to Asiatic civilization as contrasted with that of Europe. The marked difference is found in the fact that in ancient Palestine, and modern Europe, it has been customary for prophets, teachers, and other subjects, to arraign their rulers for their sins, and to demand the punishment of disorderly rulers; while in Asia, rulers have withdrawn from all such contact with ordinary subjects, and have been venerated as divine beings regardless of their personal conduct.

(1) No progress can be made in determining the nature of the State, until there is a determination of the preliminary question as to which of the two varieties of states are to be considered. The Western democratic state differs from the Oriental monarchial state in almost every particular. The nature of one cannot be the nature of the other. Aristotle taught that it is

the nature of a large portion of the human race to be slaves, while it is equally the nature of another portion to be masters. This view can never be harmonized with the Declaration of Independence. To our cost, we in America discovered that there was an irrepressible conflict between the two views. There is likewise an irrepressible conflict between Western democracy and Oriental monarchy. If it is true that in each nation a certain family is divinely appointed to rule, and that, by nature, all others are ordained to serve and obey, the Western democracy is all wrong. The lessons of liberty must be unlearned, and the masses of men must learn to live by the permission of the few.

With the growth of monarchy, upon the breaking up of the feudal system in Europe, Oriental ideas of government prevailed in many places. The "divine right" theory of the Stuarts in England was an instance. Nowhere, however, was there such a masterly development of the theory as in France. In France, also, there was exhibited the most conspicuous instance of the irrepressible conflict between Eastern and Western civilization. The monarchs of Europe felt that their position was assailed by the French Revolution.[1] And their position was assailed. The king of Prussia was correct when he called upon the monarchs of Europe to assist in saving the throne of France, lest they should lose their own thrones. The Revolution and the meteoric career of Napoleon kept every monarch in terror for more than twenty years.

(2) When quiet again came to the monarchs of Europe, they naturally fell into a thoughtful state of mind. Presently the three monarchs of Russia, Prussia, and Austria formed what is known as the Holy Alliance.[2] The object of the Alliance was to establish a rule of righteousness among the Christian nations. The originator of the plan was Alexander I. of Russia. There is no good reason to doubt that these rulers were acting from the best of motives. They were doubtless honestly seeking to apply the principles of the Gospels, as they understood them, to the government of the nations.

It is probably not fair to accuse these monarchs of being engaged in a conscious conspiracy to crush out republics in general, and make monarchy universal. In a former lesson we have seen that this same Alliance assisted in the establishment of the Republic of Switzerland.

The Holy Alliance was essentially a Russian product. Russia is partly in Asia, and partly in Europe. The people in European Russia had an Oriental reverence for the Czar; and the Czar had a truly patriarchal interest in his people. It is not to be expected that the Czar of Russia should have appreciated the really good things about the French Revolution; while it is quite to be expected that the established reigning families in Europe could easily have been led to sympathize with the Czar's way of looking at the relation of monarch and subject. The restored Bourbons in

France joined the Alliance. England also was for a time accounted a member.

(3) In 1821, six years after the formation of the Alliance, the Allies, in the face of the protest of England, determined to assist the restored Bourbon king of Spain to put down rebellion and make himself absolute. About the same time an army from Austria crushed out rebellion in Italy. In 1823 the Allied monarchs formed a plan to assist Spain to recover her provinces in America. At this time the English minister suggested to the President of the United States the propriety of a joint declaration against the policy of the Alliance. In his message to Congress in December, 1823, President Monroe notified the powers of Europe that the United States would deem it an unfriendly act for European governments to seek to extend their authority over any state in the New World whose independence the United States had acknowledged. The Holy Alliance had crushed out rebellion in Italy; it had put down revolt in Spain, and had established there the absolute rule of the Bourbons. It was on the point of making a united effort to enable Spain to regain possession of her revolted colonies in America. The opposition of England, supported as it was by the opposition of the United States, as outlined by Monroe's message to Congress, effectively thwarted the plan of the Holy Alliance.

This is another instance of the irrepressible conflict

between the two sorts of government. English liberty was based upon successful revolt against the "divine right" claims of the Stuart monarchs. American liberty was based upon successful revolt against George III., who was attempting to revive Stuart methods of government. The minds of English statesmen were already being prepared for that effective appeal to the democracy of England, which occurred in 1832.[3] The policy of the Alliance had led to the conviction that it was the intention of the monarchs to impose their rule upon the world. There can be no harmony between rulers who believe that they have a divine mission to impose their authority and the statesmen and people who believe that it is their duty to resist such authority.

SUPPLEMENTARY READING

CHAPTER IV

The Holy Alliance and Democracy

[1] **The Permanent Results of the French Revolution.**—Strictly speaking, the Empire formed no stage of the Revolution. To trace its rise would be to watch the development of no new popular spirit, such as that which led to the calling of the States General and the destruction of the Old Régime. It would rather be to record a succession of changes in the form of government accomplished with the assent but not the assistance of the nation. A *coup d'état* is not a revolution, and the rise of Bonaparte was due to the army, and not to a new idealism. Yet he was none the less a legitimate product of the Revolution, and without him the work of the six years we have described would very largely have disappeared. His marvelous success was something more than that of a mere adventurer or soldier. Wherever his influence was felt the spirit of the Revolution was also felt. That neither he nor the Revolution gave continental Europe the constitutional liberty of America, may well be admitted; but wherever his influence extended, feudal privileges, absolute monarchy, abuses of many sorts, vanished, and in their places came, though in varying degree, political equality and constitutional government. And in these blessings enjoyed so generally by western Europe, as well as in the acknowledged right of every man to life, liberty and the pursuit of happiness, we must see the inestimable blood-bought results of the years 1789-1795. So true is it that the French Revolution by perpetuating the results of a century's political and intellectual evolution began a new epoch in European politics and thought.—"*The French Revolution,*" *by Shailer Mathews, p. 285.*

[2] **The Holy Alliance.**—The three monarchs of Austria,

Prussia and Russia were peculiarly affected by the general feeling, and they expressed it in the terms of the union known as the "Holy Alliance." Their language is couched in the highest strain of lofty aspiration.

After putting on record their conviction, derived from experience of the events of the last three years, and of the blessings showered by Divine Providence upon states placing their confidence in It, and in It alone, of the necessity for settling the conduct of the Powers in their mutual relations upon the firm foundations of the Christian religion, they "solemnly declare that the present Act has no other object than to publish, in the face of the whole world, their fixed resolution, both in the administration of their respective States, and in their political relations with every other government, to take for their sole guide, the precepts of that Holy Religion, namely, the precepts of Justice, Christian Charity, and Peace, which, far from being applicable only to private concerns, must have an immediate influence on the councils of Princes, and guide all their steps, as being the only means of consolidating human institutions and remedying their imperfections."

And in the spirit of this noble declaration they proceeded to announce their adhesion to three Articles.

"Art. I. Conformably to the words of the Holy Scriptures, which command all men to consider each other as brethren, the three contracting monarchs will remain united by the bonds of a true and indissoluble fraternity, and considering each other as fellow countrymen, they will, on all occasions and in all places, lend each other aid and assistance; and, regarding themselves toward their subjects and armies as fathers of families, they will lead them, in the same spirit of fraternity with which they are animated, to protect Religion, Peace, and Justice.

"Art. II. In consequence, the sole principle of force, whether between the said governments or between their subjects, shall be that of doing each other reciprocal service; and of testifying by unalterable good will the mutual affection with which they ought to be animated, to consider themselves all as members of one and the same Christian nation; the three allied Princes

looking on themselves as merely delegated by Providence to govern three branches in the one family, namely, Austria, Prussia, and Russia, thus confessing that the Christian world, of which they and their people form a part, has in reality no other Sovereign than Him to whom alone power really belongs, because in Him alone are found all the treasures of love, science, and infinite wisdom, that is to say, God, our Divine Savior, the Word of the Most High, the Word of Life. Their Majesties consequently recommend to their people, with the most tender solicitude, as the sole means of enjoying that Peace which arises from a good conscience, and which alone is durable, to strengthen themselves every day, more and more in the principles and exercise of the duties which the Divine Savior has taught to mankind.

"Art. III. All the Powers who shall choose solemnly to avow the sacred principles which have dictated the present Act, and shall acknowledge how important it is for the happiness of nations, too long agitated, that these truths should henceforth exercise over the destinies of mankind all the influence which belongs to them, will be received with equal ardor and affection into this Holy Alliance."

These men were not hypocrites. This was not, as Brougham thought, a mere conviction for enslaving mankind under the mask of religion. These were merely men escaped from a mighty peril. France, the Netherlands, Würtemberg, Saxony, Switzerland, and the Hanse Towns acceded to the Holy Alliance.

The Prince of Wales, then Regent, while excusing himself on constitutional grounds, from accepting the invitation to formally accede to the treaty, wrote conveying his entire concurrence in the principle laid down, and his resolve to frame his conduct in harmony therewith.

But the distance is wide between the gratitude of recent deliverance and the zeal of continued perseverance.

The next four years attached a strange commentary to the text of the terms of the union. Alexander I., under the influence of Madame Krudener, dreamt at Vienna the magnificent dream of Universal Peace. The first sovereigns to break the peace of

Copyright by Underwood & Underwood

Capitols of the World

SENATE AND ACADEMY, ST. PETERSBURG, RUSSIA

Europe were the originators of the "Holy Alliance."—*"The Science of International Law," by Thomas Alfred Walker, pp. 140-142.*

[3] **The Reforms of 1832.**—By the measure thus constructed, fifty-six rotten boroughs of less than two thousand inhabitants, returning, all told, one hundred and eleven members, were entirely disfranchised; from thirty-two boroughs, having less than four thousand inhabitants, thirty-two members were taken; and the one hundred and forty-three seats thus secured were distributed among the counties and boroughs deserving additional representation. To the English and Welsh counties sixty-four new members were added; while to the forty-three new boroughs created, sixty-five members were given in different proportions. The endless anomalies in and restrictions upon the borough franchise were supplanted by a uniform system, which restored the right of voting to the "community" by conferring the electoral right upon all resident and rate-paying £10 householders. In the counties the suffrage was extended beyond the forty-shilling freeholders to leaseholders and copyholders for terms of years, and to tenants-at-will paying a yearly rental of £50. To the enactment of this measure, which threatened to destroy the control of the peers and of the richer gentry over the nominations to the House of Commons, the upper chamber opposed a most determined resistance. Not until after the bill had been rejected by the lords did the dominant element in that assembly yield to the menace of a popular outbreak, and to a threat from the king to create new peers, and accept the results of the bloodless revolution which deprived them of their last right to claim for their body a coördinate and coequal place in the English legislature. The Revolution of 1688 conferred political supremacy upon the House of Commons,—the Reform Bill of 1832 transferred the actual control of that house from the titled and untitled landed aristocracy to the English middle classes. The change thus brought about told at once upon the political weight of the hereditary chamber. "Since the Reform Act the House of Lords has become a revising and suspending house. It can alter bills; it can reject bills on which the House

of Commons is not yet thoroughly in earnest,—upon which the nation is not yet determined. . . . The house has ceased to be one of latent directors, and has become one of temporary and palpable alterers."[1] The great practical change in the relations of the two houses which the Reform Bill of 1832 thus inaugurated was not completed, however, until that measure was widened and strengthened by the Reform Act of 1867, which, by extending the franchise to the working classes, permitted them to take their places by the side of the middle classes in the control of the governing assembly of the state. By this last act, which reduced the county occupation franchise to £12, and which extended the borough franchise to all duly rated and resident male occupiers of dwelling-houses, and to lodgers occupying for the proper time lodgings to the annual value of £10, the English representative system was placed upon a broad, popular basis. The electors of the United Kingdom, who prior to the Reform Acts of 1867-68 numbered less than a million and a half, had reached in 1879, according to the parliamentary return issued in that year, within a fraction of three millions. When that point was reached,—when the emancipated House of Commons, as the governing body in the state, came to represent the will, not of the crown and the aristocracy, but of three millions of freemen drawn from the ranks of the middle and working classes,—it may be safely assumed that the cycle had come round; that the gradual and silent process of change had been fully worked out, through which the mediæval monarchy has been finally transformed into the hereditary republic in which, under the ancient and still useful forms of the throne and the regalia, the people is king."—*"Origin and Growth of the English Constitution," by Hannis Taylor, Vol. I, p. 615.*

[1] **Bagehot, Eng. Const., pp. 163, 164.**

CHAPTER V

THE MONROE DOCTRINE

ONE who believes in the absolute rules of kings must look with disfavor upon the setting up of republics. The French Revolution was encouraged and promoted by the success of the American Revolution. The Allied monarchs may have been never so sincere in their plans to establish the Christian religion, and to promote peace among the nations; yet their method of promoting peace was by sending armies into neighboring states to fasten upon the people a sort of government which they were in the act of rejecting.

(1) England opposed the policy of the Alliance in setting up absolute governments in Italy and Spain. England also openly opposed the plan to assist Spain in restoring her rule over the revolted colonies in America. Mr. Canning, the English Foreign Secretary, proposed that England and the United States should unite in a joint declaration of opposition to the Alliance. Some of the American statesmen were in favor of an open joint alliance with England. Among these was Thomas Jefferson, the inventor of the phrase "entangling alliances with none." [1] President Monroe and his Secretary of State, John Quincy

Adams, reached the conclusion that American interests would be better served through an independent declaration on the part of the United States. Hence the famous Message, sent to Congress in December, 1823.[2] Thus England and the United States, each as an independent nation, were openly pitted against the Allied monarchs. The one group stood for the right of the people to determine their own government; the other for the duty of rulers to assist each other in imposing governments upon unwilling peoples.

At the date of the Message, no steamship had ever crossed the ocean. Railways were in the experimental stage. We had just added Florida to our dominions, and made a treaty with Spain, defining our otherwise indefinite possessions west of the Mississippi. The vacant continent was still unsubdued. America was still isolated from Europe. With England and the United States, each openly committed to the policy of home rule, it was not difficult for the Spanish American colonies to make good their independence.

Washington, in his Farewell Address, said, "With me, a predominant motive has been to endeavor to gain time for our country to settle and mature its yet recent institutions, and to progress without interruption to that degree of strength and consistency which is necessary to give it, humanly speaking, the command of its own fortunes." "Why forego the advantages of so peculiar a situation? Why quit our own to stand upon foreign ground? Why, by inter-

weaving our destiny with that of any part of Europe, entangle our peace and prosperity in the toils of European ambition, rivalship, interest, or caprice?"

(2) The Monroe Doctrine has been a source of confusion because it involves two policies capable of becoming contradictory. One is the policy of isolation in the New World. Since America lets Europe alone, it was maintained that Europe should let America alone. As thus interpreted, the Doctrine is in most literal accord with Washington's Farewell Address. But the Monroe Doctrine involved also opposition to a particular kind of government. It involved the threat of interference with the affairs of independent states. It involved the coöperation of the United States with one great European state, to thwart the policy of other European states. As believers in free government, it was the duty of the United States to strengthen the hands of other free states whose existence was jeopardized. By no possible policy could America, at the time of the Monroe Message, give more effective aid to the aspirants for freedom in Europe than by preëmpting the New World for democracy. Crossing the ocean was still a formidable task. It was comparatively easy to ward off alien despotism from the peoples of the New World, while the monarchs of Europe were utterly powerless to ward off from the minds of their subjects the effects of New World democracy.

The Monroe Doctrine remains simple enough, so

long as the policy of isolation from the politics of the Old World is at the same time the most effective method of giving aid and encouragement to the promoters of free governments in all lands. Apart from this chance coincidence, Americans may be compelled to choose between alternate policies. The policy of isolation has been justified by the peculiar condition incident to the development of a new country, and by the unfavorable condition of European international relations. These are each subject to change.

(3) But the Message was called out by the fact that the monarchs of Europe represented a principle of government which threatened the very existence of the American states. It was the setting up of *such* governments that we decided to treat as an unfriendly act. This is the enduring element which was involved in the controversy between England and the Holy Alliance. Everything else which has been connected with the Monroe Doctrine is a temporary accident of time and circumstance. Those who believe with Louis XIV. that the monarch is the state, must in the nature of the case be arrayed against the believers in the right of the people to govern themselves. Every consistent believer in democracy must account it an unfriendly act whenever a people, in any part of the world, who have shown the ability and the wish to govern themselves have an alien rule put upon them by brute force.

Democracy makes no attack upon monarchy. The democratic principle requires that the people who want

a monarchy shall have a monarchy. And the democratic principle likewise requires that every government of every form shall maintain its existence by winning and retaining the loyal support of its subjects.

The democratic principle does involve a continuous attack upon government maintained by mere brute force. If the democrat consents to the act of imposing a government upon an unwilling people, it must be with the *bona fide* intention of training that people to habits of self-government.

This controversy did not originate with the Holy Alliance. It is as old as history. It arises from contradictory views of human nature, contradictory methods in education, contradictory interpretations of the Christian religion, and contradictory interpretations of the nature of law.

SUPPLEMENTARY READING

CHAPTER V

The Monroe Doctrine

[1] Jefferson's Letter to President Monroe

MONTICELLO, October 24, 1823.

DEAR SIR: — The question presented by the letters you have sent me is the most momentous which has ever been offered to my contemplation since that of Independence. That made us a nation, this sets our compass and points the course which we are to steer, through the ocean of time opening on us, and never could we embark on it under circumstances more auspicious. Our first and fundamental maxim should be, never to entangle ourselves in the broils of Europe. Our second, never to suffer Europe to intermeddle with cis-Atlantic affairs. America, North and South, has a set of interests distinct from those of Europe, and peculiarly her own. She should therefore have a system of her own, separate and apart from that of Europe.

While the last is laboring to become the domicile of despotism, our endeavor should surely be, to make our hemisphere that of freedom.

One nation, most of all, could disturb us in this pursuit; she now offers to lead, aid, and accompany us in it. By acceding to her proposition, we detach her from the bond of despots, bring her mighty weight into the scale of free government, and emancipate a continent at one stroke, which might otherwise linger long in doubt and difficulty.

Great Britain is the nation which can do us the most harm of any one, or all on earth, and with her on our side we need not fear the whole world. With her, then, we should most sedulously cherish a cordial friendship, and nothing would tend more to knit our affections than to be fighting once more, side by side, in the

same cause. Not that I would purchase even her amity at the price of taking part in her wars, but the war in which the present proposition might engage us is not her war but ours.

Its object is to introduce and establish the American system of keeping out of our land all foreign powers, of never permitting those of Europe to intermeddle with the affairs of our nations. It is to maintain our own principle — not to depart from it, and, if to facilitate this we can effect a division in the body of European powers and draw over to our side its most powerful member, surely we should do it.

But I am clearly of Mr. Canning's opinion, that it will prevent instead of provoking war. With Great Britain withdrawn from their scale and shifted into that of our two continents, all Europe combined would not undertake such a war. For how would they propose to get at either enemy without superior fleets? Nor is the occasion to be slighted which this proposition offers, of declaring our protest against the atrocious violations of the rights of nations, by the interference of any one in the internal affairs of another, so flagitiously begun by Bonaparte, and now continued by the equally lawless Alliance, calling itself Holy.

But we have first to ask ourselves a question, Do we wish to acquire to our own confederacy any one or more of the Spanish provinces?

I cordially confess that I have looked on Cuba as the most interesting addition which could ever be made to our system of States. The control which, with Florida Point, this island would give us over the Gulf of Mexico and the countries and isthmus bordering on it, as well as those whose waters flow into it, would fill up the measure of our political well-being.

Yet, as I am sensible that this can never be obtained, even with her own consent, but by war; and its independence (and especially its independence of England), which is our second interest, can be secured without it, I have no hesitation in abandoning my first wish to future chances, and accepting its independence, with peace and friendship of England, rather than its association at the expense of war and her enmity.

I could honestly, therefore, join in the declaration proposed, that we aim not at the acquisition of any of these possessions, that we will not stand in the way of any amicable arrangement between them and the mother country.

Your obedient servant,

THOMAS JEFFERSON.

[2] **The Monroe Doctrine.**—The message includes substantially the following principles:

(1) Isolation: there are two spheres of world influence, separated by a meridian drawn through the Atlantic Ocean; two political world entities, with different sets of interests; and since the United States takes no part in the affairs of the European sphere, European powers ought to keep out of American affairs.

(2) Colonization: "the American continents, by the free and independent condition which they have assumed and maintain, are henceforth not to be considered as subjects for future colonization by any European powers." This was directed against Russia, and specifically excepts "the existing colonies or dependencies of any European power."

(3) Intervention: the message assumes that the Latin-American states are permanently independent, and capable of conducting civilized governments; and explicitly and strongly protests against "any interposition for the purpose of oppressing them, or controlling in any other manner their destiny, by any European power."

(4) Political System: it would be hostile and dangerous to the United States if "the allied powers should extend their political system to any portion of either continent." This clause plainly refers to the mutual assistance given by members of the Holy Alliance.

CHAPTER VI

THE NEW PROBLEMS OF AMERICAN DEMOCRACY

THREE HUNDRED years of exceptional experience have had important effects upon the political training of the American people. Their sense of achievement is something wonderful. A continent has been subdued. Living men remember a time when there was no Chicago or San Francisco. Americans have built railroads, founded states and cities, and possessed the land. Wealth has been increased at rates before unknown. It is an easy matter to secure due appreciation of the facts of material development. It is not so easy to secure an equal appreciation of the exceptional conditions under which our achievements have been wrought. Our experience in taking possession of a vacant continent is worth absolutely nothing for the future guidance of mankind. There are now no other such continents to occupy. We may be proud of our achievement, but it assists us not a whit in the solution of future problems.

Rich agricultural lands now have people upon them. Future problems have to do with people. There have all the time been a few Indian villages within the limits of the United States. No intelligent American can honestly say that he is proud of our success in

dealing with these Indians. In our zeal for the occupation of the vacant land, we for a time threatened to depopulate the wilds of Africa, by the forcible deportation of black men to fell our forests and till our fields. We are not wont to boast of our achievements in dealing with the colored race. The object of our boast is the triumph over inert nature. We have built great cities. We do not boast of the attainment of justice and righteousness by the people who live in those cities.

(2) Not only has our peculiar experience not tended to qualify us for dealing with the most serious political and social problems; it has in some respects had a positively disqualifying tendency. For two or three centuries Americans have been on a vacation as touching the most serious problems of life. The result is that multitudes of the most intelligent Americans have entirely lost a sense of the reality of these problems. They live in a fool's paradise, and have no sense of personal obligation for the default of government. This vacation is now at an end. Upon the generation now living will come the brunt of the change from the exceptional to the normal condition. Switzerland and England and France have had no vacation. Americans have been wont to say that our case is peculiar; that we cannot in the New World be guided by the experiences of the old. In the past this has been true. In the settlement of the new country we had to "blaze" our own way. But in the government of cities, and in all political and social problems, we can learn from

the Old World, as it is of the utmost consequence that we be willing to learn.

(3) While the peculiar American experience has in some respects tended to unfit our citizens for dealing with political problems, it has in other respects been of immense advantage. It has removed the iron from the soul; it has given boundless courage and daring; it has freed us from the trammels of custom; it has created a new composite race with opportunities for leadership possessed by no other people.

If England is the Mother of Parliaments, the United States is the Father of written Constitutions. The peculiar experience of Americans has made them deliberate and conscious constitution-builders. The Virginian Colony adopted three Constitutions within a very few years; and before the Pilgrims landed at Plymouth the Virginians had worked out for themselves a Constitution which secured for them a legislative assembly. Before their landing, the Pilgrims sat down around a table and drew up a Constitution, that they might be a body politic the instant they should touch the shore. A body of Puritans in England adroitly secured from Charles I. an act of incorporation for the government of a colony, with unlimited powers over the admission of members. Having obtained the charter, these shrewd Yankees boarded a vessel and came to Boston bringing their Charter with them. And having admitted to membership all church-members, they used their Charter as a democratic Constitution for the government of the Colony.[1]

When the time for separation from England came it was quite natural that representatives should meet in the various states and write out their Constitutions. Their character and peculiar training had fitted them for this. After a dozen years of experience in the making and working of State Constitutions, delegates were prepared to meet in Philadelphia (1787) and frame a Constitution which Mr. Gladstone has called the greatest work which has ever been struck out from the human mind at one time.

Democracy involves the conscious and deliberate doing of things, on the part of the great body of the people.[2] This is America's great contribution to the politics of the world. The people have been let alone. There has been long training in the conscious control of public affairs. In the Old World the people are victims of Constitutions which are a part of their growth. Even in democratic England the Constitution has come without observation. A Chicago lawyer once said to me with an air of impatience, "Why don't the people of England make an end of their folly and reduce their Constitution to writing." Said he, "I could write them a constitution in forty minutes. And I would insure it working, too." And immediately he proceeded to outline one! In the perfecting of democracy many things need to be planned and executed. The American by nature believes at least in the possibility of accomplishing the yet unachieved.

SUPPLEMENTARY READING

CHAPTER VI

The New Problems of American Democracy

[1] **The Dorchester Company, 1623.**— Under the lead of the Rev. John White, the Dorchester was formed for trading and fishing, and a station was established at Cape Ann: but the enterprise did not prosper. The colonists were disorderly, and the company made an arrangement for Roger Conant and others, driven from Plymouth by the rigid principles of the Separatists, to come to Cape Ann.

Still matters did not improve, and the company was dissolved (1626).

But White held to his purpose, and Conant and a few others moved to Naumkeag, and determined to settle there. Conant induced his companions to persevere, and matters in England led to a fresh attempt, for discontent grew rapidly as Charles proceeded in his policy.

A second Dorchester Company, not this time a small affair for fishing and trading, but one backed by men of wealth and influence, was formed and a large grant of lands was made (1628) by the Council for New England to Sir Henry Roswell and five others.

One of the six patentees, John Endicott, went out during the following summer with a small company, assumed the government at Naumkeag, which was now called Salem, and sent out exploring parties.

The company thus formed in England was merely a volunteer partnership, but it paved the way for another and a much larger scheme. Disaffection had become widespread. The Puritans began to fear that religious and political liberty alike were not only in danger, but were doomed to destruction, and a large

portion of the party resolved to combine for the preservation of all that was dearest to them, by removal to the New World.

The Dorchester Company was enlarged (1629), and a royal charter was obtained incorporating the Governor and Company of Massachusetts Bay.

The freemen of the company were to meet four times in every year; they could choose a governor, deputy, and eighteen assistants, who were to meet every month. They were authorized to administer oaths of supremacy and allegiance, admit new associates, defend themselves by arms, transport settlers, and manage in every way their own affairs. Nothing was said of religious liberty, for this famous instrument was as shrewdly as it was loosely drawn. Omit the word company, and we have the constitution of an independent state with very ill-defined powers.

* * * * * * *

The company acted cautiously, but it was clear that they meant to exercise absolute control, and exclude opponents from their domain.

Meanwhile events moved fast in England. Charles was determined to rule arbitrarily and alone, and the Puritans took the next step in their plan of colonization by resolving to remove the company and its government to New England. Winthrop was chosen governor and Humphrey deputy.

The leaders were country gentlemen, merchants, and soldiers, men of wealth and position, while the bulk of the emigration was, as a rule, from the farmers and yeomanry, who were people of substance.

It was the migration of a people, not the mere setting forth of colonists and adventurers. The trading purposes of the corporation soon disappear, we can see the whole broad scheme of the Puritan leaders, and how, under the disguise of a trading company, and a commercial charter, they went forth to found a state and erect an independent government.

Those of the company who did not go to America remained in England to enter the Long Parliament and fight in the civil wars.

If we run over the names of those connected with the Massachusetts Company, we find nearly all the leaders of the Puritan party, the magnitude of the scheme becomes apparent, and we see that if all had been lost in England, there would in a few years have sprung up in America a great Puritan state, powerful enough to have defied the mother country and stood out as her equal at the very outset.—*"History of the English Colonies in America," by Henry Cabot Lodge, pp. 342-344.*

[2] **Conscious Development of Institutions in America.**—Throughout their development, therefore, the colonies presented, in still another equally important respect, a marked contrast to English development in this, that the formulation of their institutions was conscious and deliberate. The royal colonies, like the proprietary and the charter colonies, exercised their rights of self-government under written grants of privilege from the Crown: their institutions grew within the area of written constituent law; from the first they had definite written "constitutions" wherein the general fabric of their government was outlined.—*" The State," by Woodrow Wilson, p. 467.*

QUESTIONS FOR REVIEW. PART IV

1. How many Indians have lived at a given time in the country now known as the United States, since the discovery of America? How many are there now? What colonies had Indian wars? How much time was occupied by Indian wars? How many white men have ever been killed by Indians? How did the vacant continent enable Europeans to escape both tyranny and want? Explain the difference between the isolation of the Swiss, and the English, and the isolation of Americans. Why has North America been easily settled? How has it happened that the immigrants have been well equipped for the task? What were the chief Indian tribes?

2. Why have local governments been training schools for democracy? The case of England and Switzerland. Compare the New England town with the primitive State. How did the New England county originate? Compare the local government of New York with that of Pennsylvania and that of Virginia. How did a federal system of government originate in the separate colonies? How did the local government of Virginia differ from that of New England?

3. How did the Federal System originate in Switzerland? Why did American colonies attain a federated

democracy in so short a time? What sort of people were the early Americans? What colonies had tyrannical governors? How long did they rule? Did the colonies want to be represented in the English Parliament? By whom were the colonists willing to be taxed? Would the Thirteen States surrender to the general government control over local matters? How did it happen that the people of England did surrender to the central government control over local matters? What steps have the English democracy taken towards decentralization? Over what parts of the world does the federal system prevail?

4. What is the chief difference between Asiatic and European States? At what period of history did the monarchs of Europe gain Oriental ideas of government? Give instances of conflict between the two ideas of government. Did the French Revolution endanger the thrones of Europe? What was the object of the Holy Alliance? What did it do, in Italy, in Spain? What did it propose to do in America? How were its plans thwarted? What is a federal State? What was the position in the American colonies relative to taxation?

5. Did the policy advanced by Monroe involve participation in European politics on the part of America? Did it involve coöperation with England? What was the real objection on the part of England and America to the Alliance? Does the principle of democracy preclude monarchy in case the people want a monarchy?

If a believer in democracy consents to the imposing of a particular government upon a people, what must be his ultimate intention? What were the chief objects of the Holy Alliance? Describe the Reform of 1832 in England.

6. Why does the American experience in settling the continent furnish no useful guidance for future conduct? Are Americans proud of their Indian history? In what way has their peculiar experience tended to disqualify Americans for dealing with future problems? What are some of the favorable results? Give early instances of conscious constitution-making. How were Americans trained for this great work?

SUBJECTS FOR SPECIAL STUDY

1. The people who have come to America. Our Indian policy. The latest immigration.

2. Howard's "Local Constitutional History," or briefer texts, Macy's "Our Government," Fiske's "Civil Government."

3. Bryce's chapters on Federal Government in "The American Commonwealth."

4. The doctrine of Interference as treated in works on International Law.

5. Clayton-Bulwer Treaty, 1850. Interoceanic Canals. Maximilian in Mexico, 1865. The Venezuela boundary. The Alaskan boundary.

6. The making of constitutions, by growth and adaptation, by conscious act, and by copying.

THE NEW YORK PUBLIC LIBRARY
REFERENCE DEPARTMENT

This book is under no circumstances to be taken from the Building

Form 410